

BRIEFING ON THE PROPOSED PUBLIC
BROADCASTING FINANCING ACT OF 1978

—
PREPARED FOR THE USE
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SUBCOMMITTEE ON COMMUNICATIONS
OF THE
COMMITTEE ON INTERSTATE AND
FOREIGN COMMERCE
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BRIEFING ON THE PROPOSED PUBLIC BROADCASTING FINANCING ACT OF 1978

WEDNESDAY, OCTOBER 19, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMUNICATIONS,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10:15 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Lionel Van Deerlin (chairman) presiding.

Mr. VAN DEERLIN. Good morning. Today the subcommittee will hear from Dr. Sidney Harman, Undersecretary of Commerce, and Mr. Frank Lloyd, consultant, Office of Telecommunications Policy of the White House. We will discuss the administration's proposed legislation on public broadcasting.

As many of you know, last month the subcommittee had 3 days of panel discussions on public telecommunications as part of our overall review of the Communications Act. During those sessions we learned a great deal about the successes, failures, strengths, and weaknesses of the past 2 years in public broadcasting.

It is within this context the proposed legislation must be considered. We welcome this first major initiative in that area of telecommunications by the new administration. It is clear that much thought and effort went into the preparation of the legislation now before us. The President's message accompanying the bill is evidence of the administration's support for a strong and independent public broadcasting system. I assure you, the subcommittee shares that objective, and is eager to work with you toward the resolution of the problems that have kept public broadcasting from achieving its full potential.

Let me add, that although this is not a formal legislative hearing, the transcript of this session will be included in the record of the subcommittee's deliberations on public telecommunications.

[The text of the proposed bill and the President's accompanying message follow:]

THE WHITE HOUSE,
October 1, 1977.

To the Congress of the United States:

I am transmitting to the Congress today proposals to strengthen our public broadcasting system and to insulate it from political manipulation.

The impact of television and radio on our lives can scarcely be overestimated. Television now bulks larger than all its rivals for our leisure time. In the daily routine of many individuals, it consumes more hours than family, school, church, or job. Radio is just as important; with some 400 million receivers in American homes, cars, and workplaces, radio listening is nearly as pervasive as the air that carries it.

In these circumstances, a strong and varied public broadcast system has a crucial role to play. Because it is free of the scramble for ratings, public broadcasting has room for experimentation and risk-taking. Public broadcasting is for all Americans. It can meet the needs of audiences that number in the millions but are seldom served anywhere else. That is why, during my campaign for the Presidency, I pledged my best efforts to strengthen it.

The bill I am submitting with this message continues and increases long-term Federal funding for public television and radio. Financial stability is needed if public broadcasting is to provide better programs for more citizens and protect those programs from political pressures.

The bill also makes statutory changes to increase cooperation, reduce overlap, and clarify the missions of the three primary national organizations in the field—the Corporation for Public Broadcasting (CPB), the Public Broadcasting Service (PBS), and National Public Radio (NPR).

These changes will also increase public broadcasting's insulation from inappropriate political influence. Other amendments will give it greater journalistic independence. I want to encourage public broadcasters at all levels to engage in active news reporting and public affairs programming. This Administration will not try to stifle controversy on public television and radio. No President should try to dictate what issues public broadcasting should cover or how it should cover them. And this legislation will make such an attempt more unlikely.

This bill also proposes amendments that require public broadcasting to:

Devote more resources to high-quality national programming.

Set long-range goals by which its progress can be judged.

Plan how public television and radio signals can be brought within reach of all citizens.

Provide greater accountability to the public.

Stimulate greater participation by minorities and women.

Without these statutory changes, not even a long-term authorization bill would insure diverse and high-quality programming.

Public broadcasting's organizational problems and its need for better planning and greater diversity should not blind us to its accomplishments. In the ten years since the Public Broadcasting Act first provided Federal funds for programming, public broadcasting has set new standards in children's programs, drama, music, science, history, and educational services. Its coverage of local, state, and national hearings, its documentaries, and its in-depth news analyses have helped make government more understandable.

Public broadcasting has done more than simply entertain us. It has encouraged us and our children to think and to act. It has also pioneered in such technical innovations as captioning for the deaf and satellite broadcasting.

This bill will renew Federal funding while improving the ways the money is spent. The money will be used, among other purposes, to:

Strengthen the PBS national television service to provide a first-rate schedule of cultural and public affairs programs.

Support and expand National Public Radio, which provides a lively alternative schedule that includes music, public hearings and events, news analysis, and original radio drama.

Plan the best use of the public broadcasting satellite system and other new communications technologies. These advances make possible new television and radio networks devoted entirely to adult instruction, children's programming, or the special needs of Hispanics, Blacks, women, the elderly, or other distinct audiences.

Extend the reach of public television and radio signals. All taxpayers contribute to public broadcasting, but only about half receive a good public television signal, and fewer than two-thirds can receive public radio.

Increase public broadcasting's contribution to in-school and adult instruction. Public television's most popular prime-time series have been widely used for college extension courses. Lifelong learning should remain one of its principal goals.

Increase employment, training, and ownership opportunities for minorities and women.

Support local, state, and regional programming. Programming of local interest is an important resource.

Except for the key area of national programming, this legislation does not mandate specific allocations of Federal funds for each of these purposes. It is desirable to allow CPB the flexibility to choose among competing priorities. But the bill does set a direction that allows all these efforts to be pursued.

My specific proposals are as follows :

ASSURE LONG-RANGE FUNDING

Enactment of this legislation will allow continuation of the present system of five-year authorization and two-year advance appropriations, which was designed to assist planning and enhance insulation. Congress is currently considering an appropriation of \$152 million for fiscal 1980, the last year of the current authorization. New legislation is needed early next year for public broadcasting to be included in next year's appropriations process.

The funds authorized in the enclosed bill total \$1.041 billion. This includes a five-year authorization for CPB at \$180 million for fiscal year 1981 and \$200 million in each of the four succeeding years. It also includes a separate grant program of \$30 million annually for technical facilities in fiscal 1979 and 1980, and \$1 million for telecommunications demonstrations by HEW in fiscal 1979. These figures represent recommended authorization levels. Appropriations requests must come from the annual budget review process.

This bill maintains an authorized level of Federal funding at \$200 million after the second year. Such leveled funding will insure that both we and the public broadcasting system will reexamine appropriate funding levels based on its needs and potential in 1979, after the new Carnegie Commission on the Future of Public Broadcasting delivers its report. This Commission has taken on the difficult job of looking at the public system's creative process in light of new technology. It is also examining both the existing sources of Federal and non-Federal funding and potential new ones. The Task Force that established the Commission has urged us and Congress to move forward with a long-term authorization and related structural issues so that it can concentrate on funding methods, technology, and programming.

Leveling the authorization also insures that in two years we and Congress will evaluate the success of the organizational and other changes proposed in this bill.

CLARIFY FUNCTIONS OF NATIONAL ENTITIES

Since 1967, most Federal funds for public broadcasting have gone to the Corporation for Public Broadcasting (CPB). CPB is an independent unit run by a 15-member Board appointed by the President and confirmed by the Senate. One of CPB's key missions is to distribute Federal funds for programming in ways that shield program content from political pressure. Another is to provide system-wide leadership in planning, budgeting, resource allocation, research, evaluation, fund-raising from private sources and governmental agencies, and development of new communications services.

The public radio and television networks are run by two other units that represent the local stations: National Public Radio (NPR) and the Public Broadcasting Service (PBS). The stations decide what programs get on the air. There are also five regional television networks and several special program exchanges like the Latino Consortium. National production centers exist at larger stations and at independent entities like Children's Television Workshop. All these units have their own programming staffs.

At present, CPB itself often chooses which individual programs or series to fund. This :

- Reduces CPB's effectiveness as a political insulator.

- Reduces its ability to focus on long-range planning and new educational services.

- Duplicates staff, wastes money, and causes unproductive feuds between CPB and PBS, NPR, and other public broadcasting organizations.

The public cannot afford to pay duplicate organizations to do the same job. The greater the bureaucratic overhead, the smaller the sums that can be used for programming. It is time to define organizational roles clearly so that the public and program producers can understand how the system operates and there can be a rational, efficient basis for future planning.

I propose three steps to resolve this issue :

CPB's role would be clarified to be that of a system overseer operating much like an endowment or foundation. Based on its planning process, it would make broad allocations among radio, TV, and other distribution systems and among children's, public affairs, minority, and other program types. It would implement these decisions by giving annual or multi-year bloc grants to PBS, NPR, regional and other specialized networks, and production centers. The grantees would select the specific programs to be produced.

Two members chosen by PBS and two by NPR would be added to the CPB Board to increase both cooperation and insulation. (Four Presidentially appointed slots would be phased out to keep the total at 15.)

CPB would be required to prepare a five-year development plan for public broadcasting in concert with PBS and NPR to guide the allocation of Federal resources and update it annually in its report to Congress.

This will decentralize creative decisions, place them further from any potential political control, and refocus CPB on the important job of overall system development. But, under this mode of operation, CPB should require only a limited full-time staff to assist its Board in its priority setting and oversight tasks. It can draw upon distinguished experts in the arts, science, journalism, and education to help it evaluate current and future needs. This does not eliminate, but makes more appropriate, CPB's critical role in programming.

CPB would not need a substantial staff for program decision-making and program-related legal, public information, audience research, and similar functions. These operational tasks can be done by PBS, NPR, and other grantees without adding persons to their staffs.

CPB would need substantially fewer than its current staff of 130 to carry out its missions. The savings from these cuts and greater efficiency in CPB's retained functions should go into programming.

INCREASE FUNDS ALLOCATED FOR NATIONAL PROGRAMMING

There are now 271 public television stations and 203 public radio stations. They provide a vital service to their states and communities. But each of these stations cannot separately produce the high quality cultural, public affairs, and instructional programming their communities need.

Federal support for strong national program services was a principal recommendation of the first Carnegie Commission. It was a primary aim of the 1967 Act that created CPB. But CPB now devotes only \$17 million of its current \$103 million appropriation directly to national programming. In addition, about \$19 million of the \$58 million CPB gives to local stations is pooled for that purpose.

More Federal funds should be concentrated on national programming. By devoting more funds to national needs, public broadcasting can give producers adequate lead time and budget to create high quality domestic productions. It can and should support more first-rate production centers, like Children's Television Workshop and similar centers for independent producers, minorities, educators, and women. It can provide the complete coverage of news events, such as important Congressional hearings, that commercial broadcasting rarely offers.

This bill provides that at least 25 percent of funds appropriated to CPB in future years shall be used for a National Programming Fund for bloc grants for such productions. This will insure that by FY 1982 up to \$50 million, depending on the appropriation level, would be earmarked for national programming. These programs will continue to be produced on a decentralized basis, by producers throughout the country, but intended for national distribution.

In addition, I call on the public broadcasting system to devote another 25 percent of the Federal money to national programming. The stations can do this by pooling money, as the TV stations do now through the Station Program Cooperative, or it can be done by any other mechanism. This would provide a total of up to \$100 million for national programming in FY 1982. Minorities, women, and independent as well as station producers should have access to these funds as well as those in CPB's National Programming Fund.

Local, state, and regional services also need substantial support. A significant aspect of that support has been the funds CPB passes through to local stations for their discretionary use for local or national purposes. Unlike the current law, my bill does not place either a ceiling or floor on those funds. Allocations for this purpose should be made from year to year, as determined through CPB's cooperative planning process with PBS, NPR, and the licensees.

I also call on the other funding sources—particularly the states—to hold up their end of this funding partnership. Currently, non-Federal sources such as state and local governments, individuals, foundations, and corporations still supply the vast bulk of funds for local public stations. But, while Federal funds and individual contributions have increased during the past few years, state funds have levelled off.

As a former governor, I know the pressures on state budgets. But state support of public broadcasting, which brings state legislative proceedings and other vital services to citizens, should be maintained. I urge states that have contributed to do more, and those that have not, to begin.

REDUCE THE PERCENTAGE PUBLIC BROADCASTING MUST RAISE TO MATCH CPB FUNDS

The current law requires the system to raise \$2.50 for every \$1 the Federal Government gives CPB. CPB has indicated that such levels of non-Federal support cannot be achieved to match the proposed increased authorizations.

Even if states increase their share, there are realistic limits to the amounts that public broadcasting can hope to raise by on-air appeals to its audience and by corporate and foundation support. I am therefore proposing a reduction in the match to \$2.25-to-\$1. This figure assures a continued incentive for fund-raising without asking the system to achieve the impossible. The minimum dollar amount of matching funds that could be required to meet the upper limit of appropriations under this bill would rise gradually until the authorization is levelled off.

CPB itself can also increase incentives for non-Federal funds. It might revise its formula for allocation of local community service grants to encourage such support. Individual citizens should recognize that their funds help maintain the diversity and independence of their local stations.

I intend to review the matching concept and formula in 1979 after assessing its impact on fund raising and the Carnegie Commission's report as to future funding sources and needs.

TRANSFER PUBLIC COMMUNICATIONS FACILITIES PROGRAM FROM HEW TO CPB

A key part of my plan is the effort to bring public broadcasting to as many people as possible. Much of the Federal funding for station facilities comes from the Educational Broadcast Facilities Program now run by HEW. That effort should be fully coordinated with the system's own long-range planning. I am therefore recommending that this program be transferred to CPB.

As part of the planning required by this bill, CPB will estimate the cost of reaching as close to the total American population as would be feasible using the most efficient technologies. For the next two years, pending submission of such a plan, I propose to continue the Facilities Program's present \$30 million annual authorization.

I also propose changes in the Facilities Program to:

Make assistance to minority public television and radio stations a funding priority. No public television station in the continental United States is operated by a minority-controlled institution, although Howard University and others have applied for licenses. There are only a handful of minority-controlled public radio stations.

Allow planning grants to be made to groups wishing to start stations. These grants would enable them to do the legal, engineering, and other studies needed to apply for actual communications facilities.

Make regional networks and other groups of stations eligible for facilities funds.

Make facilities grants open to any broadcast or nonbroadcast communications technology chosen by an eligible applicant. Federal funds should support the most efficient technical means to make publicly funded programming available to the widest audiences.

CPB will be able to use a portion of the facilities funds being transferred for demonstrations of new public service delivery systems, such as two-way communication via satellite.

ENCOURAGE JOURNALISTIC INDEPENDENCE

Unlike commercial broadcasters, public broadcasters are forbidden by current law to editorialize on issues of public importance. This ban makes sense for stations licensed to a state or local government instrumentality. But Congress

has recently amended the tax code to allow private non-profit organizations to advocate positions on public issues. The Public Broadcasting Act should be similarly amended to allow non-governmental licensees to exercise their First Amendment rights.

This change would not require editorials, but it would permit them. Public broadcasters should have an equal opportunity with commercial broadcasters to participate in the free marketplace of ideas.

States hold about half of the U.S. public television station licenses. Another step toward journalistic independence would be for state and local governments to better insulate these stations. The danger of undue political control is as real here as at the Federal level. This bill does not compel any particular form, but I want to encourage states to establish independent boards to assure insulation.

REQUIRE PUBLIC ACCOUNTABILITY

Independence from government control does not mean a public station has no obligation to account for its stewardship. But such accountability is best exercised directly to the local citizens who contribute to the station's support. I therefore propose sunshine for public stations that receive Federal funds; they should be required to open their board meetings and financial records to the public.

This legislation is not intended to restrict a public station board's privacy on personnel matters, or otherwise sanction unwarranted invasions of personal privacy. But local citizens should have access to the basic decisions public stations make in allocating tax funds and private donations. This is already standard practice at CPS, PBS, NPR, and many public stations.

INCREASE PARTICIPATION OF MINORITIES AND WOMEN

This bill makes it clear that the employment discrimination laws apply to stations and other producers that receive CPB funds. It conditions such grants on nondiscrimination, just like receipt of a grant from a Federal agency. Since CPB is not a Federal agency, enforcement of this requirement will be delegated to a Federal agency with expertise in this field.

This change, combined with making minority ownership a goal of the facilities program, will help bring greater diversity to the decision-making levels of public broadcasting. But statutory amendments alone are not enough. Public broadcasting should make its own effort to become an entry-level training ground and model for the other media in meeting the needs of women, Blacks, Hispanics, and other minorities.

STUDY OF FEDERAL AGENCY PROGRAM FUNDING

Last year approximately \$25 million was contributed to public broadcasting directly by the four agencies—HEW, the National Endowment for the Arts, the National Endowment for the Humanities, and the National Science Foundation.

This is an important source of Federal funds that is outside of the CPB appropriation. It accounts for one-fourth of the national public TV schedule, as well as many local and state productions. And it is not covered by CPB's insulation from political pressure.

This funding should be coordinated with the work of CPB, PBS, and NPR to assure that it is used efficiently for programs that get on the air. I propose that CPB inventory all such grants in its annual report to Congress and that it act as a consultant to the agencies and a clearinghouse for grant information. In addition, we are drafting administrative rule for the agencies to assure there is no improper manipulation of program content.

PUBLIC STATION FREQUENCY ALLOCATIONS AND RECEPTION

Most public television stations are on UHF channels, and most public radio stations are on the FM band. I urge the Federal Communications Commission to seriously consider pending proposals that would bring public television and radio closer to parity with commercial stations. These include proposals for better standards for TV set reception of UHF channels and better allocation of FM channels for public radio. I am hopeful that the new leadership at the FCC will give UHF and FM improvements priority attention.

Better spectrum management and reception standards may do more to make public broadcasting more widely available than substantial Federal grants for transmitters and increased power. The costs and benefits of each approach should be carefully weighed.

I urge Congress to consider promptly, and to pass, the legislation I am submitting containing the proposals described in this message. This will provide a firm foundation for planning the next decade of public communications in this country.

JIMMY CARTER.

1 "PART IV—ASSISTANCE FOR PUBLIC TELECOMMUNICA-
2 TIONS FACILITIES; TELECOMMUNICATIONS DEMON-
3 STRATIONS; CORPORATION FOR PUBLIC BROADCAST-
4 ING".

5 (b) The heading for subpart A of part IV of title III
6 of the Communications Act of 1934 is amended to read as
7 follows:

8 "Subpart A—Assistance for Public Telecommunications
9 Facilities".

10 (c) Section 390 of the Communications Act of 1934
11 is amended to read as follows:

12 "DECLARATION OF PURPOSE

13 "SEC. 390. The purpose of this subpart is to assist in
14 the planning and construction of public telecommunications
15 facilities in order to achieve the following objectives: (1)
16 extend delivery of public television and radio services to as
17 many citizens of the United States as possible by the most
18 efficient and economical means, including the use of non-
19 broadcast technologies; (2) significantly increase public
20 television and radio services for minorities; and (3)
21 strengthen the capability of existing public television and
22 radio stations to provide educational or cultural services."

23 AUTHORIZATION OF APPROPRIATIONS

24 SEC. 102. Section 391 of the Communications Act of
25 1934 is amended to read as follows:

1 "AUTHORIZATION OF APPROPRIATIONS

2 "SEC. 391. (a) There are authorized to be appropriated
3 to the Public Broadcasting Fund established pursuant to
4 section 396(k) \$30,000,000 for the fiscal year ending
5 September 30, 1979, and \$30,000,000 for the fiscal year
6 ending September 30, 1980, to be used by the Corporation
7 for Public Broadcasting to assist in the planning and con-
8 struction of public telecommunications facilities as provided
9 in this subpart. Sums appropriated under this subpart for any
10 fiscal year shall remain available until expended for pay-
11 ment of grants for projects for which applications approved
12 by the Corporation pursuant to this subpart have been
13 submitted within one year after the last day of such fiscal
14 year.

15 "(b) Payments to the Corporation from appropriations
16 under this subpart shall be used to cover the Corporation's
17 costs of administering this subpart."

18 GRANTS FOR CONSTRUCTION AND PLANNING

19 SEC. 103. Section 392 of the Communications Act of
20 1934 is amended to read as follows:

21 "GRANTS FOR CONSTRUCTION AND PLANNING

22 "SEC. 392. (a) For each project for the construction
23 of public telecommunications facilities there shall be sub-
24 mitted to the Corporation an application for a grant con-
25 taining such information with respect to such project as the

1 Corporation may require, including the total cost of such
2 project, the amount of the grant requested for such project,
3 and a five-year plan outlining the applicant's projected
4 facilities requirements and the projected costs of such facilities
5 requirements. Each applicant shall also provide assurance
6 satisfactory to the Corporation that—

7 “(1) the applicant is (A) an entity which is eligible
8 to be licensed or is licensed by the Federal Communica-
9 tions Commission as a noncommercial educational tele-
10 vision or radio station; (B) a system of public broad-
11 cast stations; (C) a nonprofit foundation, corporation,
12 institution, or association organized primarily for educa-
13 tional purposes; or (D) a State, a State or local govern-
14 ment agency, or a political subdivision of a State;

15 “(2) the operation of such public telecommunica-
16 tions facilities will be under the control of the applicant;

17 “(3) necessary funds to construct, operate, and
18 maintain such public telecommunications facilities will be
19 available when needed;

20 “(4) such telecommunications facilities will be used
21 only for educational or cultural purposes; and

22 “(5) there has been comprehensive planning for
23 public telecommunications facilities in the area the
24 applicant proposes to serve, including coordination with
25 State educational television and radio agencies as appro-

1 piate, and the applicant has participated in such plan-
2 ning, and will make the most efficient use of the facilities
3 grant.

4 “(b) Upon approving any application under this section
5 with respect to the construction of any project, the Corpora-
6 tion shall make a grant to the applicant in the amount deter-
7 mined by it, but not exceeding 75 percent of the amount
8 determined by the Corporation to be the reasonable and
9 necessary cost of such project.

10 “(c) To obtain assistance for the planning of any
11 project for which construction funds could be obtained under
12 this section, there shall be submitted to the Corporation an
13 application for a grant containing such information as the
14 Corporation may require and providing assurance satis-
15 factory to the Corporation that the applicant would be eligi-
16 ble to receive assistance under subsection (a).

17 “(d) Upon approving any application under this sec-
18 tion with respect to the planning of any project, the Cor-
19 poration shall make a grant to the applicant in any amount
20 it determines.

21 “(e) Any studies financed under this section shall be
22 provided to the Corporation.”.

23 . . . CONSULTATION

24 SEC. 104. Section 393 of the Communications Act of
25 1934 is amended to read as follows:

"CONSULTATION

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REPORT TO CONGRESS

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"SEC. 393. The Corporation shall consult with public broadcast licensees and their national membership organizations, with national educational organizations, minority group representatives, and with others as appropriate, in establishing criteria for making construction and planning grants pursuant to this subpart. Such criteria shall be consistent with the objectives set forth in section 390 and shall be made available to all interested parties."

SEC. 105. Section 394 of the Communications Act of 1934 is amended to read as follows:

"LONG-RANGE PLANNING; REPORT TO CONGRESS

"SEC. 394. (a) The Corporation, in cooperation with public broadcast licensees and their national membership organizations, with national educational organizations, minority group representatives, and with others as appropriate, shall create a long-range plan to accomplish the objectives set forth in section 390. Such plan shall include a detailed five-year projection of the telecommunications facilities requirements of public broadcasting and the projected costs of such facilities.

"(b) The long-range plan required in subsection (a), updated annually, and a summary of the Corporation's activities implementing the plan, shall be submitted to the

1 President for transmittal to the Congress as specified in sec-
2 tion 396 (i).”.

3 PUBLIC TELECOMMUNICATIONS FACILITIES

4 SEC. 106. Section 397 (2) of the Communications Act
5 of 1934 is amended to read as follows:

6 “(2) The term ‘public telecommunications facilities’
7 means apparatus necessary for production, interconnection,
8 captioning, broadcast, or other distribution of programing,
9 including, without limitation, studio equipment, cameras,
10 microphones, audio and video storage or reproduction equip-
11 ment, or both, signal processors and switchers, towers,
12 antennas, transmitters, microwave equipment, mobile equip-
13 ment, satellite communications equipment, instructional tele-
14 vision fixed service equipment, subsidiary communications
15 authorization transmitting and receiving equipment, cable
16 television equipment, video and audio cassettes and discs,
17 optical fiber communications equipment, and other means of
18 transmitting, emitting, storing, and receiving images and
19 sounds, or intelligence, except that such term shall not include
20 the buildings to house such apparatus, with the exception of
21 small equipment shelters which are part of satellite earth
22 stations, translators, microwave interconnection facilities, and
23 similar facilities.”.

24 CONSTRUCTION

25 SEC. 107. Section 397 (3) of the Communications Act
26 of 1934 is amended to read as follows:

1 “(3) The term ‘construction’, as applied to public tele-
2 communications facilities, means acquisition (including
3 acquisition by lease), installation, and modernization, and
4 planning incidental thereto.”.

5 TITLE II—TELECOMMUNICATIONS

6 DEMONSTRATIONS

7 AUTHORIZATION OF APPROPRIATIONS

8 SEC. 201. Section 395 (h) of the Communications Act
9 of 1934, as so redesignated in section 202 (1), is amended
10 by striking out “September 30, 1977, and \$250,000 for the
11 period July 1, 1976, through September 30, 1976,” and
12 inserting in lieu thereof “September 30, 1978, and \$1,000,-
13 000 for the fiscal year ending September 30, 1979,”.

14 TECHNICAL AMENDMENTS

15 SEC. 202. Part IV of title III of the Communications
16 Act of 1934 is amended—

17 (1) by redesignating section 392A as section 395
18 and inserting above the heading for such section the
19 following new heading:

20 “Subpart B—Telecommunications Demonstration”;

21 (2) by inserting above section 395 (b), as so re-
22 designated in paragraph (1), the following new
23 heading:

1 “Application Approval”;

2 (3) by inserting above section 395 (c), as so re-
3 designated in paragraph (1), the following new heading:

4 “Amount of Grant or Contract; Payment”;

5 (4) by inserting above section 395 (d), as so re-
6 designated in paragraph (1), the following new
7 heading:

8 “Uses of Funds”;

9 (5) by inserting above section 395 (e), as so re-
10 designated in paragraph (1), the following new
11 heading:

12 “Nonbroadcast Telecommunications Facilities”;

13 (6) by inserting above section 395 (f), as so re-
14 designated in paragraph (1), the following new
15 heading:

16 “Duration of Funding of Demonstrations”;

17 (7) by inserting above section 395 (g), as so re-
18 designated in paragraph (1), the following new
19 heading:

20 “Summary and Evaluation”;

21 (8) by inserting above section 395 (h), as so re-
22 designated in paragraph (1), the following new
23 heading:

1 “Authorization of Appropriations”;

2 (9) in section 393, by striking out the heading for
3 such section and by striking out “SEC. 393.”;

4 (10) by redesignating section 393 (a) as section
5 395 (i) (1) and inserting above it the following new
6 heading:

7 “Records, Access by Secretary and Controller General”;

8 (11) by redesignating section 393 (b) as section
9 395 (i) (2) ;

10 (12) in section 394, by striking out the heading
11 for such section;

12 (13) by redesignating section 394 as section 395
13 (j) and inserting above it the following new heading:

14 “Rules and Regulations”;

15 (14) in section 395 thereof, by striking out the
16 heading for such section;

17 (15) by redesignating section 395 as section 395
18 (k) and inserting above it the following new heading:

19 “Assistance by Commission; Coordination with Commission
20 and Corporation”; and

21 (16) by redesignating subpart B as subpart C,
22 and by amending the heading for subpart C, as so re-
23 designated, to read as follows:

24 “Subpart C—Corporation for Public Broadcasting”.

1 TITLE III—CORPORATION FOR PUBLIC

2 BROADCASTING

3 CONGRESSIONAL DECLARATION OF POLICY

4 SEC. 301. Section 396 (a) of the Communications Act
5 of 1934 is amended—

6 (1) by striking out “noncommercial educational”
7 each place it appears therein and inserting in lieu thereof
8 “public”;

9 (2) in paragraph (6) thereof, by striking out
10 “educational” and inserting in lieu thereof “public”;
11 and

12 (3) by amending the heading above such subsec-
13 tion to read as follows:

14 “Congressional Declaration of Policy”.

15 “ESTABLISHMENT OF CORPORATION

16 SEC. 302. Section 396 (b) of the Communications Act
17 of 1934 is amended to read as follows:

18 “Establishment of Corporation

19 “(b) (1) There is authorized to be established a non-
20 profit corporation to be known as the ‘Corporation for
21 Public Broadcasting’, which will not be an agency or
22 establishment of the United States Government. The Cor-
23 poration shall be subject to the provisions of this section, and,
24 to the extent consistent with this section, to the District of
25 Columbia Nonprofit Corporation Act.

1 “(2) The Corporation, its grantees, subgrantees, con-
2 tractors, and subcontractors shall be subject to the require-
3 ments of title VI of the Civil Rights Act of 1964 and
4 title IX of the Education Amendments of 1972.”.

5 BOARD OF DIRECTORS OF CORPORATION

6 SEC. 303. Section 396 (c) of the Communications Act
7 of 1934 is amended to read as follows :

8 “Board of Directors

9 “(c) (1) Except as provided in paragraph (2) of this
10 subsection, the Corporation shall have a Board of Directors
11 (hereinafter in this section referred to as the ‘Board’), con-
12 sisting of 19 members, 15 of whom shall be appointed by
13 the President, by and with the advice and consent of the
14 Senate (hereinafter in this section referred to as ‘Presidential
15 appointees’), two of whom shall be appointed by the national
16 membership organization representing public television
17 licensees, and two of whom shall be appointed by the na-
18 tional membership organization representing public radio
19 licensees (hereinafter in this section referred to as ‘licensee
20 appointees’). Not more than eight of the Presidential ap-
21 pointees may be members of the same political party. Li-
22 censee appointees may not serve concurrently on the Board
23 and on the board of directors of their respective national
24 membership organization, nor may they be regular full-time
25 employees of such organization.

1 “(2) Beginning January 1, 1979, as vacancies occur
2 among Presidential appointees, the membership of the Board
3 shall be reduced until it consists of 15 members, 11
4 of whom shall be Presidential appointees and four of whom
5 shall be licensee appointees. After December 31, 1982, not
6 more than six of the Presidential appointees may be mem-
7 bers of the same political party.

8 “(3) The members of the Board—

9 “(A) shall be selected from among citizens of the
10 United States who are not regular full-time employees
11 of the United States, and who are eminent in such fields
12 as education, cultural and civil affairs, or the arts, includ-
13 ing radio and television; and

14 “(B) shall be selected so as to provide as nearly
15 as practicable a broad representation of various regions
16 of the Nation, various professions and occupations, and
17 various kinds of talent and experience appropriate to
18 the functions and responsibilities of the Corporation.

19 “(4) (A) The term of office of each member of the
20 Board shall be six years, except that—

21 “(i) any member appointed to fill a vacancy occur-
22 ring before the expiration of the term for which his
23 predecessor was appointed shall be appointed for the
24 remainder of such term; and

25 “(ii) the terms of office of the licensee appointees

1 first taking office shall begin 90 days after the date of
2 the enactment of the Public Broadcasting Financing
3 Act of 1978.

4 “(B) The term of office of one television licensee
5 appointee and one radio licensee appointee shall expire, as
6 designated at the time of their appointment, at the end of
7 four years, and the term of office of one other television
8 licensee appointee and radio licensee appointee shall expire,
9 as designated at the time of their appointment, at the end of
10 six years. No member shall be eligible to serve in excess of
11 two consecutive terms of six years each. Notwithstanding
12 the preceding provisions of this paragraph, a member whose
13 term has expired may serve until his successor has qualified.

14 “(5) Any vacancy in the Board shall not affect its
15 powers. Vacancies shall be filled in the manner in which the
16 original appointments were made, except as provided in
17 paragraph (2) of this subsection.”.

18 CHAIRMAN OF BOARD

19 SEC. 304. Section 396(d) (1) of the Communications
20 Act of 1934 is amended by striking out “President shall
21 designate one of the members first appointed to the Board as
22 Chairman; thereafter the”.

23 OFFICERS AND EMPLOYEES

24 SEC. 305. Section 396(e) (2) of the Communications
25 Act of 1934 is amended by striking out “the second sen-

1 tence of", and by striking out "subsection (c) (1)" and
 2 inserting in lieu thereof "subsections (c) (1) and (c) (2)".

3 PURPOSE AND ACTIVITIES OF CORPORATION

4 SEC. 306. (a) Section 396 (g) (2) (B) of the Commu-
 5 nications Act of 1934 is amended to read as follows:

6 " (B) make grants to national, regional, and other
 7 systems of public broadcast stations, other public broad-
 8 casting entities, and independent production entities for
 9 the production or acquisition of public television or radio
 10 programs for national or regional noncommercial
 11 distribution;".

12 (b) Section 396 (g) (2) (D) of the Communications
 13 Act of 1934 is amended by striking out "broadcasting".

14 (c) Section 396 (g) (2) (H) of the Communications
 15 Act of 1934 is amended by striking out "and the use of
 16 nonbroadcast" and all that follows through "or radio
 17 programs".

18 (d) Section 396 (g) (2) of the Communications Act of
 19 1934 is amended—

20 (1) in subparagraph (H) thereof, by striking out
 21 the period at the end thereof and inserting in lieu thereof
 22 " ; and"; and

23 (2) by adding at the end thereof the following new
 24 subparagraph:

25 " (I) to make grants or contracts for the use of non-

1 broadcast telecommunications technologies for the dis-
2 semination of public television or radio programs.”.

3 (e) Section 396 (g) (3) of the Communications Act of
4 1934 is amended to read as follows:

5 “(3) To carry out the foregoing purposes and engage
6 in the foregoing activities, the Corporation shall, to the ex-
7 tent consistent with the provisions of this subpart, have the
8 usual powers conferred upon a nonprofit corporation by the
9 District of Columbia Nonprofit Corporation Act. The Cor-
10 poration is prohibited from—

11 “(A) owning or operating any television or radio
12 broadcast station, interconnection system or facility,
13 network, community antenna television system or pro-
14 gram production facility; and

15 “(B) producing, acquiring, scheduling, or distrib-
16 uting programs, or selecting individual programs or
17 series of programs for production, acquisition, distribu-
18 tion, or broadcast.”.

19 (f) Section 396 (g) of the Communications Act of 1934
20 is amended by adding at the end thereof the following new
21 paragraph:

22 “(4) In carrying out its functions, the Corporation shall
23 minimize its administrative costs.”.

1 ANNUAL REPORT TO CONGRESS

2 SEC. 307. Section 396 (i) of the Communications Act
3 of 1934 is amended to read as follows:

4 "Report to Congress

5 "(i) (1) The Corporation shall submit an annual report
6 for the preceding fiscal year ending September 30 to the
7 President for transmittal to the Congress on or before the
8 31st day of December of each year. The report shall in-
9 clude—

10 "(A) a comprehensive and detailed report of the
11 Corporation's operations, activities, financial condition,
12 and accomplishments under this subpart and such recom-
13 mendations as the Corporation deems appropriate;

14 "(B) the plan on public broadcasting development
15 required in paragraph (2) ;

16 "(C) the report on public telecommunications facil-
17 ities required in section 394; and

18 "(D) a comprehensive and detailed inventory of
19 funds distributed by Federal agencies to public broad-
20 casting entities during the preceding fiscal year.

21 "(2) The Corporation, in cooperation with public tele-
22 vision and radio licensees and their national membership
23 organizations, and others as appropriate, shall create a five-

1 year plan for the development of public broadcasting. Such
2 plan, updated annually, and a summary of activities imple-
3 menting the plan, shall be included in the report required
4 in paragraph (1).

5 “(3) The officers and directors of the Corporation shall
6 be available to testify before appropriate committees of the
7 Congress with respect to such report, the report of any audit
8 made by the Comptroller General pursuant to section 396
9 (1), or any other matter which such committees may
10 determine.”.

11 FINANCING; NATIONAL PROGRAMING FUND; OPEN
12 MEETINGS AND FINANCIAL RECORDS

13 SEC. 308. Section 396 (k) of the Communications Act
14 of 1934 is amended to read as follows:

15 “Financing

16 “(k) (1) (A) There is hereby established in the Treas-
17 ury a fund which shall be known as the ‘Public Broadcasting
18 Fund’, administered by the Secretary of the Treasury.

19 “(B) In addition to such funds authorized to be appro-
20 priated under section 391, there is authorized to be appropri-
21 ated to such fund, for each of the fiscal years during the
22 period beginning October 1, 1977, and ending September 30,
23 1980, an amount equal to 40 percent of the total amount of
24 non-Federal financial support received by public broadcasting
25 entities during the fiscal year second preceding each such

1 fiscal year, except that the amount so appropriated shall not
2 exceed \$121,000,000 for the fiscal year ending September
3 30, 1978; \$140,000,000 for the fiscal year ending Sep-
4 tember 30, 1979; and \$160,000,000 for the fiscal year
5 ending September 30, 1980.

6 “(C) For each of the fiscal years during the period be-
7 ginning October 1, 1980, and ending September 30, 1985,
8 there is authorized to be appropriated to such fund an amount
9 equal to four-ninths of the total amount of non-Federal finan-
10 cial support received by public broadcasting entities dur-
11 ing the fiscal year second preceding each such fiscal year,
12 except that the amount so appropriated shall not exceed
13 \$180,000,000 for the fiscal year ending September 30, 1981,
14 and \$200,000,000 for each fiscal year during the period
15 beginning October 1, 1981, and ending September 30, 1985.

16 “(2) The funds authorized to be appropriated by this
17 subsection shall be used solely for the expenses of the Cor-
18 poration. The Corporation shall determine the amount of
19 non-Federal financial support received by public broadcast-
20 ing entities during each of the fiscal years specified in para-
21 graph (1) for the purpose of determining the amount of
22 each authorization, and shall certify such amount to the
23 Secretary of the Treasury, except that the Corporation may
24 include in its certification non-Federal financial support
25 received by a public broadcasting licensee during its most

1 recent fiscal year ending before September 30 of the year
2 for which certification is made. Upon receipt of such certi-
3 fication, the Secretary of the Treasury shall disburse to the
4 Corporation, from such funds as may be appropriated to the
5 Public Broadcasting Fund, the amount authorized for each of
6 the fiscal years pursuant to the provisions of this subsection.

7 “(3) The Corporation shall establish a National Pro-
8 gramming Fund from which it shall make grants to national,
9 regional, and other systems of public broadcast stations,
10 other public broadcasting entities, and independent produc-
11 tion entities for the production or acquisition of public
12 television or radio programs intended for nationwide dis-
13 tribution. During each fiscal year during the period begin-
14 ning October 1, 1980, and ending September 30, 1985,
15 the Corporation shall deposit in the National Programming
16 Fund an amount equal to not less than 25 percent of the
17 funds paid to the Corporation from the Public Broadcast-
18 ing Fund under this section.

19 “(4) The Corporation shall reserve for distribution
20 among the licensees and permittees of public broadcast sta-
21 tions that are on-the-air an amount equal to not less than 40
22 percent of the funds disbursed to the Corporation from the
23 Public Broadcasting Fund under this section in each fiscal
24 year in which the amount disbursed is \$88,000,000 or more,
25 but less than \$121,000,000; not less than 45 percent in

1 each fiscal year in which the amount disbursed is \$121,000,-
2 000 or more, but less than \$160,000,000; and not less than
3 50 percent in each fiscal year in which the amount disbursed
4 is \$160,000,000. For any fiscal year beginning after Septem-
5 ber 30, 1980, the Corporation shall, after consultation with
6 public radio and television licensees and their national mem-
7 bership organizations, reserve for distribution among the
8 licensees and permittees of public broadcast stations that are
9 on-the-air, a percentage it determines of the funds disbursed
10 to the Corporation from the Public Broadcasting Fund under
11 this section in such fiscal year.

12 “(5) (A) The Corporation shall, after consultation
13 with public television and radio licensees and with their
14 national membership organizations, establish, and review an-
15 nually, criteria and conditions regarding the distribution of
16 funds received pursuant to paragraph (4) in accordance with
17 this paragraph.

18 “(B) The total amount of funds shall be divided into
19 two portions, one to be distributed among radio stations, and
20 one to be distributed among television stations. The Corpora-
21 tion shall make a basic grant from the portion reserved for
22 television stations to each licensee and permittee of a public
23 television station that is on-the-air. The balance of the por-
24 tion reserved for television stations and the total portion
25 reserved for radio stations shall be distributed to licensees

1 and permittees of such stations in accordance with eligibility
2 criteria that promote the public interest in public broadcast-
3 ing, and on the basis of a formula designed to—

4 “(i) provide for the financial need and require-
5 ments of stations in relation to the communities and
6 audiences such stations undertake to serve;

7 “(ii) maintain existing, and stimulate new, sources
8 of non-Federal financial support for stations by provid-
9 ing incentives for increases in such support; and

10 “(iii) assure that each eligible licensee and permit-
11 tee of a public radio station receives a basic grant.

12 “(C) No distribution of funds pursuant to this sub-
13 section shall exceed, in any fiscal year, one-half of a licen-
14 see’s or permittee’s total non-Federal financial support during
15 the fiscal year second preceding the fiscal year in which
16 such distribution is made.

17 “(6) Funds may not be distributed pursuant to this
18 subsection to the licensee or permittee of any public broad-
19 cast station whose governing board does not hold open
20 meetings under terms and conditions which the Corporation
21 shall establish. Such terms and conditions as the Corpora-
22 tion establishes shall be comparable to those prescribed for
23 Federal agencies in section 552b of title 5, United States
24 Code. Nothing in this subsection shall be construed to require

1 a governing board to hold open meetings unless such meetings
2 relate in whole or in part to station matters.

3 “(7) Funds may not be distributed pursuant to this sub-
4 section to the licensee or permittee of any public broadcast
5 station that does not maintain for public examination copies
6 of annual financial reports such station submits to the Cor-
7 poration.

8 “(8) Funds distributed pursuant to this subsection
9 may be used at the discretion of stations for purposes
10 relating to the provision of public television and radio
11 programing, including—

12 “(A) producing, acquiring, broadcasting, or other-
13 wise disseminating public television or radio programs;

14 “(B) procuring national or regional program dis-
15 tribution services that make public television or radio
16 programs available for broadcast or other dissemination
17 at times chosen by stations;

18 “(C) acquiring, replacing, or maintaining facil-
19 ities, and real property used with facilities, for the pro-
20 duction, broadcast, or other dissemination of public
21 television and radio programs; and

22 “(D) developing and using nonbroadcast com-
23 munications technologies for public television or radio
24 programing purposes.”

RECORDS AND AUDIT

SEC. 309. (a) Section 396 (1) (3) (A) of the Communications Act of 1934 is amended by striking out "section" and inserting in lieu thereof "part".

(b) Section 396 (1) (3) (B) of the Communications Act of 1934 is amended by striking out "section" and inserting in lieu thereof "part".

TITLE IV—GENERAL PROVISIONS

PUBLIC BROADCAST STATION

SEC. 401. Section 397 (7) of the Communications Act of 1934 is amended to read as follows:

"(7) The terms 'noncommercial educational broadcast station' and 'public broadcast station' mean a television or radio broadcast station which (A) under the rules and regulations of the Federal Communications Commission in effect on the date of the enactment of the Public Broadcasting Financing Act of 1978, is eligible to be licensed by the Commission as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association; or (B) is owned and operated by a municipality and which transmits only noncommercial programs for educational purposes."

INTERCONNECTION

SEC. 402. Section 397 (8) of the Communications Act of 1934 is amended to read as follows:

“(8) The terms ‘interconnection’ and ‘interconnection facility’ mean the use of microwave equipment boosters, translators, repeaters, communications space satellites, video or audio tape recorders, or other apparatus or equipment for the transmission and distribution of television and radio programs to public television or radio broadcast stations.”.

INTERCONNECTION SYSTEM; SYSTEM OF PUBLIC STATIONS;

NATIONAL MEMBERSHIP ORGANIZATION

SEC. 403. Section 397 of the Communications Act of 1934 is amended by adding at the end thereof the following new paragraphs:

“(12) The term ‘interconnection system’ means the use of interconnection facilities for the distribution of programs to public television or radio stations, which may include the selection and scheduling of programs for such distribution.

“(13) The term ‘system of public broadcast stations’ means any two or more public television or radio stations acting cooperatively, either on a formal or informal basis, to produce, acquire, or distribute (by means of interconnection or otherwise) programs, or for other mutual programming and related activities.

1 place it appears therein and inserting in lieu thereof
2 "public".

3 (2) Sections 397 (9), 397 (10) (A), and 397 (11) of
4 the Communications Act of 1934 are amended by striking
5 out "educational" each place it appears therein and insert-
6 ing in lieu thereof "public".

7 (3) Section 397 (10) (B) of the Communications Act
8 of 1934 is amended by striking out "educational" the second,
9 third, and fourth places it appears therein and inserting in lieu
10 thereof "public".

11 (4) Section 398 of the Communications Act of 1934
12 is amended by striking out "educational" the first and third
13 places it appears therein and inserting in lieu thereof
14 "public".

15 (c) Section 397 (6) of the Communications Act of 1934
16 is amended by striking out "subpart B" and inserting in lieu
17 thereof "subpart C".

18 EFFECTIVE DATES

19 SEC. 406. The provisions of this Act shall take effect
20 on October 1, 1978, except that the provisions of sections
21 102, 201, and 303, and the provisions of section 396 (k) (1)
22 of the Communications Act of 1934 (as amended by section
23 308), shall take effect on the date of the enactment of this
24 Act.

MR. VAN DEERLIN. I believe Dr. Harman would like to lead off, but due to a scheduling conflict, he can be with us only a brief time. Therefore, any questions for Dr. Harman should be addressed to him immediately following his prepared statement, and we will save our "roundhouse rights" for the man who remains.

STATEMENT OF SIDNEY HARMAN, UNDER SECRETARY OF COMMERCE

MR. HARMAN. Thank you, Mr. Chairman, and thank you also for that quite unexpected bit of ambiguity. Your "roundhouse rights," I think, are yours constitutionally, as well as socially. I am delighted really, to have the opportunity to visit with your subcommittee as the spokesman for the Department of Commerce.

I do regard my visit with the subcommittee today as essentially a symbolic act. We are inheriting what I regard as one of the most consequential long-range and significant roles in the period of the next several decades as a consequence of the reorganization plan, and it is my hope and expectation, and certainly my determination, that the Department will work cooperatively and constructively with your subcommittee, not alone on this critical issue, but on many matters that deal with communications and information policy over the years.

As you well know, the Department of Commerce has been engaged actively, it is among its principal responsibilities to communicate fundamental information dealing with such broad-ranging material as census statistical data, trade information, technical information, and now, as we look to the assumption of these new responsibilities, it will be our expectation again to deal with them in a totally cooperative and responsible way.

There are few areas that would more properly command the attention and respect of this committee and the American public than the field of public broadcasting. Surely as we consider the expanding character of our society, the need for an alert, creative, growing public broadcasting mechanism is absolutely mandatory. It is the purpose of this legislation to make it coherent, to make it more responsive to the need.

The proposed legislation, I am aware, is the product of the effort of the Office of Telecommunications Policy, the Domestic Office of the White House, the work of the HEW, Office of the OMB, and of course, it has drawn very heavily on the work of this subcommittee in your hearings as recently as September. I am, of course, quite new to our responsibilities. I look forward to them eagerly.

It is my feeling, having read the proposed legislation, that it is intended to be very responsive to the material developed during your hearings. Its purpose surely is to make public broadcasting more responsive to the public need, to increase the opportunities for genuine minority participation in that arena, to improve the technological capabilities of public broadcasting, and, in general, to expand and enlarge and nourish this facility in such a way as to properly insulate it from political and other considerations.

I know that these are concerns that have been strong in your thinking, strong in the thinking of the subcommittee, and it is my earnest expectation that when the process has been completed, legislation will

exist which is totally and consistently responsive to those needs, expressed both by you, Mr. Chairman, your subcommittee, and the President of the United States.

I do look forward, as long as I am able to stay this morning, to the statement by Frank Lloyd and to his response to the more substantive questions which may arise as a consequence of that statement. I am very pleased, indeed, to visit with you this morning, and I thank you for the opportunity to make that introductory comment.

[Mr. Harman's prepared statement follows:]

STATEMENT OF SIDNEY HARMAN, UNDER SECRETARY OF COMMERCE

Mr. Chairman, I am appearing before you today in recognition of the new responsibilities given to the Department of Commerce by Reorganization Plan No. 1 as the Administration's chief spokesperson on communications policy. In this new role, I hope that my presence here marks the beginning of a long and fruitful relationship with your Subcommittee. The Department is eager to work with you on this matter as well as the many other critical issues which confront us in the complex area of communications and information policy.

As you know, the Department of Commerce has long been concerned with the distribution of information as a public good that might not otherwise be readily available. Census and economic data, information on technical standards, and the National Technical Information Service are examples of the assistance we have provided over the years. Public broadcasting is a service which provides yet another source of valuable information desired by the American public and which is in need of Federal support to realize its full potential.

The Public broadcasting legislation was drafted by the Office of Telecommunications Policy, in consultation with the White House Domestic Policy Staff, the Office of Management and Budget, and the Department of Health, Education, and Welfare. I understand that they drew heavily on the Options Papers prepared by this Subcommittee and on the Subcommittee's hearings, notably those in September.

Because the communications responsibility came so recently to Commerce, I will not discuss the details of the program. I would, however, like to note what the President stated are among the major benefits of the Administration's proposal. It—

Assures long-range funding for greater insulation and better planning;

Provides mechanisms for greater accountability to the public at the local level;

Strengthens the quality and quantity of first-rate domestic programming;

Encourages minorities and women to take a more active role in the design of public broadcasting;

Allows for the development of new technologies and services; and

Reduces overlap and creates a more efficient public broadcasting system.

To discuss the program in detail, I would like to introduce Frank Lloyd, a consultant to the Office of Telecommunications Policy, who played a key role in helping the President develop this program. Mr. Lloyd will present a background statement for the record on the President's message to Congress and this bill, and will answer any questions you have.

Mr. VAN DEERLIN. Thank you, Dr. Harman. I know that we will be getting down more to specifics in the statement by and questions put to Mr. Lloyd. I suppose that if there were any main impression left with some of us when the proposed White House bill and the President's message accompanying it arrived on Capitol Hill, it was that the message was a superb one, that it touched on many of the issues that have been plaguing public broadcasting.

The bill itself seemed to go only part way in addressing the various strong points that were made in the message. I know that the bill is offered only as a beginning. It is going to be worked over in the usual manner here. I would express the hope myself that some of the points

made in the message might be better articulated in the legislation itself.

You are obviously where you are because you are a successful businessman. I am sure the qualities of a competent organizer were a great deal of what recommended you to the administration in offering you this post. As a businessman who is accustomed to accountability from everyone who works for him, are you satisfied that CPB and PBS and the local stations, and all the entities involved at the various stages of the funding of public broadcasting are properly delineated? Do you share some of the feeling that there has been overlapping which is not helpful and which, if anything, raises problems that need not be there?

MR. HARMAN. I agree with that question that the principle of accountability needs to be one of the primary considerations as you approach this material. I agree beyond that that during the last number of years there has been ample evidence, there has been confusion and overlap, and as a consequence of that not only the difficulty of accountability in mechanical expression, but I think, as an almost inevitable consequence of that confusion the lack of the clarity which is, in a sense, derivative of any circumstance in which confusion and lack of clarity exists. So the need you refer to is one I do identify and agree with you totally about.

MR. VAN DEERLIN. Under the new office being created in the Department of Commerce, will this new Assistant Secretary have a hand in administration policy toward public broadcasting?

MR. HARMAN. I expect them to have a very significant hand and a creative mind.

MR. VAN DEERLIN. Mr. Gore?

MR. GORE. Thank you, Mr. Chairman. Is it appropriate to ask about these funding levels at this point?

MR. VAN DEERLIN. I believe that is more the type of questioning that Mr. Lloyd is prepared to handle.

MR. GORE. I will withhold then.

MR. VAN DEERLIN. All right.

MR. HARMAN. Mr. Gore, I thank you. On another occasion I would be very responsive to questions about funding levels. I have read the material, I am certainly aware of it. Mr. Lloyd is, of course, the principal architect of this work. He has long and considerable experience in the area, and I would be most eager to have him be responsive to the substantive questions today. But I will be eager for you not to have the impression that this is not a matter of considerable interest to me.

MR. VAN DEERLIN. Mr. Waxman?

MR. WAXMAN. Thank you, Mr. Chairman. Dr. Harman, the only thing I would like to say to you is that I appreciate this bill from the administration giving a real commitment to public broadcasting, providing for a long-term funding so that it can remove public broadcasting from political pressures and also could assist them in their planning for the use of their resources for the very purposes the Congress envisioned, the whole scheme of public broadcasting. I am very pleased with the bill, and I look forward to working with you and those of our staff to make this the kind of bill the administration has in mind and I think the Congress is very receptive to.

Mr. HARMAN. Mr. Waxman, I am most appreciative of that generous observation. I can think of few more significant in the years ahead than the strengthening of public broadcasting and the delivery to it, the facility to give full expression to its responsibilities.

Mr. WAXMAN. Thank you, and thank you, Mr. Chairman.

Mr. VAN DEERLIN. The gentleman from Pennsylvania, Mr. Marks.

Mr. MARKS. Thank you, Mr. Chairman. I have no questions for Dr. Harman, but I do want to join the others in welcoming you. I am looking forward to a very fine relationship with you personally, and to tell you that I envy you your new position.

Mr. HARMAN. Thank you, sir.

Mr. VAN DEERLIN. Mr. Moore?

Mr. MOORE. No questions.

Mr. VAN DEERLIN. Any staff questions for Dr. Harman?

Mr. SHOOSHAN. No, thank you.

Mr. VAN DEERLIN. You have just had the most beautiful 10 minutes that anyone can remember before this subcommittee.

Mr. HARMAN. I suppose, Mr. Chairman, I had better cherish them whole I have them.

Mr. VAN DEERLIN. Very nice to have you here to present this general subject to us, and we hope to have you back, Dr. Harman. Thank you.

Mr. HARMAN. Thank you very much. If I may, I would like to sit for awhile and listen as long as I can to Mr. Lloyd's material.

Mr. VAN DEERLIN. You will indulge in the learning process now?

Mr. HARMAN. That is what I am here for.

Mr. VAN DEERLIN. Mr. Lloyd.

STATEMENT OF FRANK LLOYD, CONSULTANT, OFFICE OF TELECOMMUNICATIONS POLICY, EXECUTIVE OFFICE OF THE PRESIDENT, ACCOMPANIED BY ROBERT SACHS, CONSULTANT

Mr. LLOYD. Mr. Chairman, I am appearing here today to provide your subcommittee with whatever background information you desire on the President's October 6 message to Congress on public broadcasting and the proposed legislation, H.R. 9620, that accompanied it.

I have a prepared statement, quite a lengthy statement, which attempts to provide some of the background of the administration's thinking behind its proposals, and I want to introduce that into the record.

Mr. VAN DEERLIN. Of course, it will be accepted into the record.

Mr. LLOYD. I would like to summarize it briefly and then move to answering your questions. The first thing I would like to stress is the President's personal commitment to this message to the Congress, and to the principles contained within it: The continuation of advance year funding, and to improve on the ways that funding for public broadcasting is spent.

Many persons within the administration worked on the policy options put before the President, but the decisions made and message reflecting them are his. I think you are very right to focus on the message. The bill must reflect, to the fullest extent possible, the President's intention in that message. The message is very strongly his, and if we have not succeeded in any way in carrying that through, we look to the committee for its help in making sure those intentions are carried forward in the legislation.

We fully briefed the President on these issues. This effort included persons from OTP, OMB, and the White House Domestic Policy Staff, including Robert Sachs, who is sitting with me this morning, who is known to this committee in the past, and who will be doing much of the followup briefing in the future.

Mr. VAN DEERLIN. As long as we are making a formal record, we will acknowledge that he is favorably known to the subcommittee.

Mr. LLOYD. Thank you.

This is not just a recent concern and interest of the President. As Governor of Georgia he was a strong supporter of the State public broadcasting network and increased its funding to reach all citizens of that State. He supported a strong role for the State public system in commentary and coverage of governmental affairs, including the impetus from the Governor of nightly reports on the State legislature while it was in session.

During the Presidential campaign, President Carter pledged to continue support for public broadcasting and to increase its autonomy. This promise, as you have noted, became the first major communications policy initiative launched under his administration.

The process in which I engaged since last February in preparing options for the President drew heavily on the research of the subcommittee staff as reflected in its options paper on public broadcasting. After our options for the President were prepared, we discussed them throughout the past summer with your subcommittee staff, with the staff of the Senate Communications Subcommittee, and many other interested parties, including consumers, minority interests, women, industry spokespersons, and those from the educational field. We also worked closely with the Secretary of the Department of Health, Education, and Welfare on matters relevant to their jurisdiction.

The oversight discussions your subcommittee held in September were of great assistance to us. Not only did we have the full public record of 3 days of testimony on the issues that were before both this subcommittee and the President, but we also invited the public station management personnel and the independent and the station producers who were here for the hearings to come to the White House to explain to them the proposals we were studying and to get their reactions directly—from both the creative community and the public stations in the field, not simply their Washington representatives.

Minority ownership of public stations was the subject of a separate White House meeting held by an administration task force looking at minority ownership of communications generally. There is no question that we changed, moved, molded, and perfected our positions over the past 7 months based upon this process and these meetings. And I want to stress that this administration regards this open process as a continuing one. We realize fully that the President's message to Congress is only the beginning of an even more focused and intensive process of amendment and fine tuning in both houses of Congress. This was one reason for the President's decision to send this message and legislation to Congress now, with the full knowledge that no formal subcommittee or full committee action could be taken until next year. It is our hope that in the coming weeks we can fully discuss with your staff and with individual members of the subcommittee any questions that you may have until you are fully satisfied this proposal represents a significant step forward for public broadcasting in this country.

As I stated, the President is fully committed to the goals and recommendations in his message, but we remain open to statutory adjustments to clarify the bill's intent and improve its operation. We are also working on that with the Corporation for Public Broadcasting, the Public Broadcasting Service, National Public Radio, and others, and have received suggestions as to areas in which further clarification would be helpful.

We are already committed to two technical amendments to this bill by January. One will specify the manner in which the Equal Employment Opportunity laws will be monitored and enforced as to CPB and its grantees. This was omitted, Mr. Chairman, at your request in order to allow the interagency task force, created after your hearings, to grapple with this problem, and we understand it is planning to issue a report on that in December.

The second technical amendment will determine whether HEW or CPB should administer the facilities grants made prior to the date of the proposed transfer of the Educational Broadcasting Facilities Program from HEW to CPB. HEW and CPB could not agree on this point during the legislative drafting process. OMB has asked each to send a representative to work with us on this, and your subcommittee's participation in resolving this would be most welcome.

It is our understanding the subcommittee will hold formal legislative hearings in January, at which the administration will be given an opportunity to more fully present its views and the subcommittee can hear from other witnesses. We hope by that time we will be agreed with your staff as well as with others on clarifying or additional amendments to this bill to make sure it is one we can all support.

As Under Secretary Harman has stated, the President's message, we believe, clearly addresses the issues raised by the subcommittee's option papers and oversight hearings, and you have confirmed that this morning. The message addresses greater insulation, better planning, increased cooperation and decreased duplication, minimized overhead cost, increased funds for programs, a service that reaches more Americans, greater journalistic freedom for public broadcasters, more access and freedom to experiment for the creative community—including independent producers—the flexibility to use new technologies, increased participation of women and minorities, greater public accountability at the local level, and better coordination of Federal dollars for public broadcasting from various sources.

In many of these areas the President has determined not to propose legislative solutions in the detail suggested by some witnesses before you during your hearings.

The President has attempted to address public broadcasters as well through his message to Congress, in the expectation that a clear signal and Presidential concern for access and administrative waste can, itself, stimulate constructive change.

We believe that legislation alone would be unsuccessful without a clear signal from both the administration and Congress of their intent in many areas in which detailed attempts to mandate specific structures and decisions over a multiyear period would be unduly restrictive.

But neither has the President accepted the view many stated during your hearings that no legislation was necessary, that more money was

simply the answer, and that the system could take care of all of its problems if that issue were resolved. An example is one of the central issues of your hearings—the proper rationale and role of the three separate entities, CPB, PBS, and NPR, at the national level of public broadcasting. The President has resisted the contention that only by total surgery, with either complete centralization of programming authority in a single entity, or by total transfer of all functions from CPB to the licensee institutions—PBS and NPR—could a workable system be created.

He has, instead, proposed that a bill institutionalize a process of cooperation, consultation, and partnership between CPB and the licensees in all phases of systems development but in a process that still preserves the benefits of diversity. This bill institutionalizes the concept of a partnership for all areas of systems development, including an allocation of community service grants to local stations and allocation of national programming dollars.

But more than simply institutionalizing this process, H.R. 9620 makes several changes responsive to other specific concerns raised at your hearings. My prepared testimony explains each of these in detail. I will simply list each of them quickly, and leave the details of how this is carried out to your questions.

Changes made by the legislation will be as follows: First, priorities for allocation of Federal resources are required to be set by the system in a cooperative endeavor on an advance, 5-year basis, updated annually in CPB's report to Congress. This is a response to criticisms heard often at your hearings about the ad hoc nature of decisions in public broadcasting and the lack of future planning.

Second, public radio is recognized statutorily as a full partner with public television in this cooperative planning process. This applies to some arguments made at your hearings that NPR is caught in the middle between only two real partners in the public broadcasting endeavor, CPB and PBS.

Third, the radio and television licensees are each given the power to select two members of the CPB Board. This further institutionalizes a cooperative process by also increasing CPB's insulation from total political control of appointments. A pullback in political appointment power has been recommended many times, even by the original Carnegie Commission, and was repeated at your hearings by Dr. Kilian, the Chairman of that Commission.

Fourth, the manner in which CPB makes programming allocations through this cooperative process would be altered legislatively. CPB would act as a model public broadcasting foundation or endowment making annual or multiyear grants for categories of programming to a variety of production entities, but would not be involved in the process of selection or creation of individual programs or series within those categories. This answers the call by many at your hearings for CPB to refocus its attention on long-range oversight and planning, rather than the day-to-day, script-to-pilot program-to-series development for which there is ample talent elsewhere, both within and outside the public system.

I have, in my testimony, gone into some detail as to how this system of programming grants would work. I am sure there will be questions on it, but we can come back to that in response to your questions.

Fifth, this cooperative process must be carried out in a manner that will minimize CPB's administrative costs. This is another serious concern raised throughout your hearings. The administration firmly believes that through operation on a foundation bloc grant funding model the Corporation should be able to achieve significant cost savings. We believe CPB can design a program grant and production process that is rational, works to set broad goals and incentives, and shifts the major portion of the creative programming process outside of CPB.

CPB can also, through this process, shift much of the burden of its existing program-related operating tasks, such as audience research, public relations, and legal advice on programming issues out of CPB to the licensee-based institutions. Again, I have given examples of this in my testimony. I believe that this message has been sent very strongly to the Corporation, not only from the President's message, but through the Senate confirmation hearings last week of Gillian Sorenson and Sharon Rockefeller where the chairman of the Senate Communications Subcommittee stated this message quite strongly.

We believe more drastic measures, such as earmarking the administrative costs of CPB, or setting a specific personnel ceiling for CPB, are not necessary, and that rational determinations will be made through a positive response by the men and women who sit on the CPB board. We recognize, however, that you and the Senate will want to reexamine this question and determine whether any more specific course is both effective and proper.

Sixth, radio and television programming for national distribution is given a specific statutory allocation within the planning process. The percentage set aside for programs intended for national distribution is set so as to insure ample funds for local programming as well. This need for domestically produced, high quality programming, of the same stature as imported programming, was a theme repeated throughout your hearings. The President firmly believes this is a special and intended role for a significant portion of the Federal funds. I have, again, in my testimony, done some detailed calculations as to how much this statutory allocation is, in fact, of the total public broadcasting revenues. The 25 percent set aside comes to approximately one-twelfth of the total system revenues in any given year. If the stations meet the President's call to match those dollars with their own dollars for national programming, that would be one-sixth of the total system revenues for that purpose. Again, we can go through those figures in detail to ascertain how much, in fact, is left for local programming. We feel that ample is left. In fact, that amount is increased. We think that without this set aside, we will simply never be able to foster America's creative talent and provide it with a national showcase. We saw what could be done with this talent 2 weeks ago, when for the first time a PBS-distributed production, the American Short Story series, was sold to the BBC for \$70,000.

We hope that in the future, with this aggregation of funding, we can continue to produce programs of this quality that we can begin to export, rather than importing so much of our public programming.

The seventh change contained in the legislation would provide that public broadcasting's own planning process would now include fa-

cilities funds formerly administered by HEW as well as the national program funds, the community service grants, and other public system funding elements. Again, we feel that this will provide better coordination and planning, a key issue in your hearings. Again, I have gone through, in my testimony, the other changes this part of the legislation makes, such as setting priorities for the use of these facilities funds for extension of service and minority ownership, opening this program to planning grants, and opening the program to nonbroadcast technology.

But I want to underline that I believe at your hearings every witness on this subject testified that the first priority must be to complete coverage to all American citizens, to the extent feasible, of public television and public radio. Only 50 percent of the American public today receive what is considered a good or acceptable public television signal, and only 60 percent can get a public radio station. We are proposing to put an additional \$1 billion into a system that one-half the taxpayers simply cannot receive. We believe that without a coherent, comprehensive plan from the public broadcasting community itself as to achieving this goal of coverage, it makes no sense to make this commitment. The two must be together; the two must be intertwined.

Eighth, through this legislation, the local public will have increased opportunity for participation in the system's planning process. I want to underline that we believe strongly that the accountability in this overall planning process must be by the local stations to the local communities, not only for what they produce locally, but for the decisions they make as to the allocation of national programs to meet local needs. By opening board meetings, and by opening financial records of local stations to their local communities, we see a new partnership emerging at that level that is the best form of accountability, rather than for us in the administration or for Congress to try, on a detailed day-to-day basis, to set and form public broadcasting's specific priorities.

We would like to provide the basis for the public, the local community, to be able to do that with the stations, and through the stations, to the national planning process.

Finally, two more points change under this legislation. Ninth, CPB and its grantees must undertake affirmative efforts to insure participation of women and minorities in their activities. As I have said, we look to you for your guidance on this.

Tenth, CPB will be required to inventory funds granted to public broadcasting by Federal agencies so that we can have, and the committee can have, some idea of how much this money is, what it is being used for, and more importantly, so that producers within the system and independent producers can find a single door to which to go to find this information. As was testified at your hearings, it is currently impossible to find that door, to find information on Federal agency funding.

I will also answer any questions you wish on the potential removal of the editorializing provisions on public broadcasting to further its journalistic independence.

Having stated all of these points, I must close by addressing the question, yes, but it will really work? Should there not really be a single czar in public broadcasting, one place we could go—or should we not propose to move it all out of CPB? Why should we not go one of those two directions? We have studied this issue long and hard, and have looked carefully at those alternatives. We believe we should support a strengthening, a rationalization of an existing system, but try to make it work better. We are not sure this will work. We do know the present system is not working adequately, and we believe these steps will establish a new relationship. But in order to meet the problem, there is always an inescapable risk this program will not achieve those goals. This is why we have proposed to level the funding for public broadcasting after 2 years of increased authorizations in this legislation.

We know that public broadcasting will argue for increased funding for the last 3 years of the bill simply based on inflation. But we believe that a leveled authorization for those 3 years is the best alternative, either to now enacting ever increasing authorizations without a clear and comprehensive plan for public broadcasting's future development, or on the other hand, breaking the valuable principle of advance year authorization to allow public broadcasters a base for planning and confidence in their future.

Finally, we have not attempted to address by legislation, as I stated, every concern raised by the subcommittee's hearings. There are certain areas in which it may be difficult to legislate creatively and flexibly. You cannot legislate creativity. You can legislate a process which you hope will result in creativity. You cannot legislate the use of new technology. You can legislate a process which encourages and fosters and stimulates it.

The public broadcasting satellite system, and access to it, for example, is an issue which may be impervious to specific legislation over a 5-year period. We have, as stated in my testimony, hoped that the Carnegie Commission on the Future of Public Broadcasting can address some of these questions which to us seem very difficult areas in which to legislate with detail and specificity.

We hope that in certain areas, such as the structure of local licensee boards, access to the satellite system, and the non-Federal funding sources such as corporate underwriting, into which the Carnegie Commission is putting between \$1 million and \$2 million in research and study of non-Federal funds, this study can result in some constructive suggestions. After you study these areas, we hope that you come to the same conclusion. But, if you determine these are issues ripe for legislation, we will commit to work constructively with you to try to achieve that.

The same is true, we feel, of a total alternative form of Federal funding such as special licensing fees, taxes, or an income tax checkoff. After careful study we determined there is not adequate research in this field as to how such systems would operate, how much money they would raise, and we concluded not to recommend a change at this time. We think again that the Carnegie Commission has a substantial amount of funds and staff to look at this. But also again, to the extent the subcommittee wishes to look at these issues, we will constructively work with you.

I think that closes my statement. I thank you for this opportunity to appear before you today, and we will try to answer any questions you may have. We will also be prepared to supplement the record with any written questions you may want to send to us after this hearing.

[Mr. Lloyd's prepared statement follows:]

STATEMENT OF FRANK LLOYD, CONSULTANT, OFFICE OF TELECOMMUNICATIONS
POLICY, EXECUTIVE OFFICE OF THE PRESIDENT

Mr. Chairman, I am appearing today to provide your Subcommittee with background information on the President's October 6, 1977 Message to Congress on Public Broadcasting and the proposed legislation, H.R. 9620, entitled the Public Broadcasting Financing Act of 1978, he has transmitted with that message. I will outline the Administration's intentions in submitting this bill and try to answer any questions you may have about its provisions.

I first want to stress the President's personal commitment to the continuation of advance-year funding for public broadcasting and the improvement of the ways in which those funds are spent. Many persons within the Administration worked on the policy options that were put before the President. But the decisions made, and the message reflecting them, are his. He carefully studied the issues involved and was personally briefed on them by me and others from OTP, the Office of Management and Budget, and the White House Domestic Policy Staff.

This is a longstanding concern of the President. As Governor of Georgia, he was a strong supporter of the state public broadcasting network. He increased its funding to insure that it reached all parts of the state. And he supported a strong role for his state public system in coverage of and commentary on governmental affairs, including nightly reports on the state legislature while it was in session.

During the 1976 Presidential campaign, President Carter pledged to continue support for and increase the autonomy of the American public broadcasting system. This promise became the first major communications policy initiative launched under his Administration.

I came to the Office of Telecommunications Policy last February to begin to prepare policy options for the President. I had previously worked in public broadcasting, having served from 1971 to 1973 as General Counsel of the National Public Affairs Center for Television (NPACT), an independent production center which produced public television's coverage of the 1972 political year, the Watergate hearings, and similar events and issues. Since 1973, I had written several articles on public broadcasting while serving as Executive Director of Citizens Communication Center, a public interest law firm.

During the process of developing our options for the President, I drew heavily on the research of this Subcommittee's staff as reflected in its options paper on public broadcasting. Once our options were prepared, we discussed them throughout the past summer with the Subcommittee staff, the staff of the Senate Communications Subcommittee, and many other interested parties. This included conferences of the National Citizens Committee for Broadcasting, the National Black Media Coalition, and the National Federation of Community Broadcasters, and discussions with representatives of the Corporation for Public Broadcasting, National Public Radio, Public Broadcasting Service, National Education Association, Joint Council for Educational Telecommunications, and many others. We also worked closely with the Secretary of the Department of Health, Education, and Welfare.

The oversight hearings your Subcommittee held in early September were of great assistance. Not only were we able to utilize the record made by all affected interests during the three days of public testimony, but we also invited public station management personnel and independent and public station producers who had come to Washington for the hearings to the White House to get their specific reactions to the proposals the President was considering.

Minority ownership of public stations was the subject of a separate White House meeting held by an Administration task force looking at minority ownership in communications generally.

I want to stress that we regard this open process as a continuing one. We realize that the President's message represents only the beginning of an even more focused and intensive process of amendment and fine-tuning in both houses

of Congress. This was one reason for the President's decision to send this message and proposed legislation to Congress now, with the full understanding that formal subcommittee and committee action could not take place until early next year. It is our hope that we can fully and openly discuss any questions you have both today and over the coming weeks to insure that you are fully satisfied that this proposal represents a significant step forward for public broadcasting in this country.

The President is fully committed to the goals and recommendations in his message. But we remain open, however, to statutory adjustments to clarify the bill's intent or improve its operation. We are working on that with CPB, PBS, NPR, and others, and have already received initial constructive suggestions as to areas in which further clarification would be helpful.

We are already committed to offering two technical amendments to this bill next January. One will specify the manner in which equal employment opportunity laws will be monitored and enforced as to CPB and its grantees. This was omitted at the request of the Chairman to allow the interagency task force established after your hearings last spring to complete its work and make its recommendations. It is my understanding that the task force will issue its report in December. The second will determine whether HEW or CPB should administer facilities grants made during the 10-year period prior to the date of the proposed transfer of the Educational Broadcasting Facilities Program from HEW to CPB. HEW and CPB could not agree on this point prior to the transmittal of the bill, so OMB has asked each party to designate a representative to work with us to resolve this issue. Your Subcommittee's participation in this process would be most welcome.

It is our understanding that the Subcommittee will hold formal legislative hearings in January at which the Administration will be given an opportunity to more fully present its views, and the Subcommittee can hear from other witnesses.

The President's message, we believe, clearly addresses the issues that have been raised by the Subcommittee's options paper and oversight hearings. From it, I think you will see that the President shares the concerns of this Subcommittee, and commits to support: Greater insulation; better long-range planning; increased cooperation and decreased duplication between CPB and station licensees; minimized overhead costs and increased funds for quality domestic programming, both national and local; a service that reaches more Americans; greater journalistic freedom; more access and freedom to experiment for the creative community, including independent producers; flexibility to use new technologies, increased participation of women and minorities; greater public accountability at the local level; and better coordination of federal dollars for public broadcasting from various sources.

In many of these areas, however, the President has determined not to propose legislative solutions in the detail suggested by some witnesses who came before you. The President has addressed public broadcasters through this message, as well as Congress, in the expectation that a clear signal of Presidential intent to foster creativity and independence and Presidential concern for access and administrative waste can stimulate constructive change. Legislation alone will not be enough without a clear signal of both Presidential and Congressional intent in many areas in which detailed attempts to mandate specific structures and decisions over a multi-year period would be unduly restrictive.

But neither, the President believes, is new substantive legislation unnecessary. The President has not accepted the premise, argued by some before your Subcommittee, that money alone will achieve a more effective public broadcasting medium.

An example is one of the central issues at your hearings: The proper rationale and role of three separate entities—CPB, PBS, and NPR—at the national level of public broadcasting. The President has resisted the contention that only by total surgery, with either complete centralization of programming authority in a single merged entity, or by total transfer of all functions from CPB to the licensee-based institutions—PBS and NPR—could a workable system be created.

But he has not left solution of this issue to chance. He has chosen in this bill to institutionalize a process of cooperation, consultation, and partnership between CPB and the public station licensees in all phases of development of a rational, efficient public system that still preserves the benefits of diversity. At present, CPB and PBS have a "partnership agreement" dealing with such issues

as the level of funds passed through as "community service grants" (CSG's) by CPB to local television station licensees, and PBS participation in the CPB program selection process. This bill institutionalizes the concept of partnership for all areas of system development, including allocation of both CSG's and national programming dollars.

More than simply institutionalizing this process, however, H.R. 9620 makes several changes responsive to concerns raised at your hearings:

1. Priorities for allocation of federal resources are required to be set on an advance, five-year basis and updated annually in CPB's report to Congress. This responds to the criticism by stations, producers, and consumers that the system has been focused on ad hoc decisions to the detriment of future planning. This has led to no comprehensive plan for facilities upgrading and expansion, and inadequate lead-time to produce quality series for future program schedules.

2. Public radio is recognized statutorily as a full partner with public television in this cooperative process. This responds to the argument some make that there are only two partners, CPB and PBS, and that NPR gets squeezed in the middle. The radio licensees will have a statutorily recognized voice in the resource allocations made by CPB in facilities planning and construction, community service, and national programming funds.

3. The radio and television licensees are each given the power to select two members of the CPB Board. At the same time, four of the 15 Presidentially-appointed Board positions would be phased out. This further institutionalizes a cooperative process, while also increasing CPB's insulation from any future potential political manipulation. A reduction in total political control of the CPB appointments has been long advocated by many in and outside public broadcasting. It was repeated at the Subcommittee's September hearings by Dr. James Killian, Chairman of the original Carnegie Commission.

It would be expected that the licensees would not necessarily choose members of their own boards or station managers for these positions, but would choose to elect to CPB whatever lay or professional person—such as an eminent journalist or writer—they thought would best insulate the system and support its creative goals. Board members or employees of the national licensee membership organizations (currently PBS and NPR) would be barred from concurrent service on the CPB Board.

4. The manner in which CPB makes programming allocation decisions, through this cooperative process, would be altered legislatively. CPB, on the basis of the jointly created plan, would act as a model public broadcasting foundation or endowment. It would make annual or multi-year grants for categories of programming to a variety of production entities, but would not be involved in the process of selection or creation of individual programs or series of programs within those categories.

This answers the call by many at your hearings for CPB to refocus its attention on long-range oversight and planning functions, rather than the day-to-day, script-to-pilot-to-program-to-series development for which there is ample talent within and outside the public system.

How would such a system work? CPB, carrying out the development plan created with the radio and television licensees, would divide national programming funds among competing priorities. CPB's principal funding role would continue to be to attempt to fill gaps in the program marketplace, gaps in both commercial broadcast programming and in the public broadcasting schedule provided by the other marketplaces—the stations' own cooperative aggregation of national program dollars, direct funding by federal agencies such as HEW and the National Endowment for the Arts and Humanities, and funding by corporations and private foundations.

After setting these priorities, CPB would set forth the criteria for its grants—first by division between audio and video programming, and secondly within each of these categories by program need. For example, CPB might determine that significant gaps in national distribution over the next few years would occur in the area of American historical drama, programs reflecting the Black, Hispanic, or Native American culture and viewpoints, new children's programming, major documentaries on current issues, and coverage of major public affairs events.

CPB, through a set of criteria and evaluation of basic proposals that might include peer review panels such as that developed by the National Endowment for the Arts, would then select the entity best suited to either itself produce each such category of programming or to administer a series of subgrants in a cate-

gory to a variety of other producers. The model for the first type of bloc grant would be that made by CPB this year to WETA, Washington, for coverage of Congressional hearings. The model for the second type would be the recent grant by the National Endowment for the Arts and the Ford Foundation to WNET's Television Laboratory, which must subgrant those funds to independent documentary producers.

While in both of these cases grants were made to public stations, the legislation clearly contemplates that the program funding process must be an open one. Independent entities like Children's Television Workshop, or similar entities that might exist or be created by women, minorities, or other independent creative artists, should compete on an equitable footing.

Once such a grant were made, the grantee would be held accountable both by CPB and by the licensees, who ultimately make the decision whether any program will be distributed by PBS or NPR or carried by their individual stations. The producer would work with PBS and NPR, as representatives of the licensees, to insure that the programs being produced met changing station needs and could gain access to the distribution system. (Once the public broadcast multi-channel satellite system is operational, the limits on distribution time available should be less severe.) CPB and the radio or television licensees might at times determine that PBS or NPR would be the best entity through which one type of bloc grant program funds should be channeled (such as grants to independents, or "step-ups" of programs designed for a local audience for national distribution).

The producer's ultimate accountability to CPB would come at the close of the grant period. Those who met the goals and priorities set at the outset of the process would be rewarded with future grants, and those who did not would face reduced or no future funding.

Thus removed from individual program decision-making, the CPB Board could best function in its important and proper roles:

To shield and insulate public broadcasting from potential political pressure;

To account to the Congress as a national overseer or trustee as to the overall priorities for and expenditure of federal funds; and

To make the best use of federal program funds, based on forward planning, to insure services the system might otherwise not provide.

One level of national involvement in the individual creative program process would be removed—the most sensitive level politically. Insulation would be strengthened by putting these decisions one level removed from CPB. Risks could then be taken, with the ability to experiment and even to fail, which the BBC representative at your hearings noted was a condition precedent to creative success.

5. This cooperative process must be carried out so as to minimize CPB's administrative costs. This addresses a serious concern raised throughout the hearings. As a representative of the Ford Foundation testified, when Ford was the primary source of programming dollars for the public system, its grant-making functions were performed by a maximum staff of 10. This does not take into account other Ford staff that provide legal, financial, and similar support to its grant-making staff. But, as the President states in his message, CPB should be able to achieve significant cost savings through operation on a foundation, bloc grant funding model.

The Administration believes that the CPB Board simply does not require a large full-time staff to effectively carry out its oversight and priority-setting tasks. It can effectively design a program grant and production process that is rational, works through setting goals and incentives, and shifts the major portion of the creative process outside CPB. It can also seek to shift much of the burden of its existing program-related operating tasks, such as audience research, public relations, and legal advice to PBS and NPR.

For example, if CPB makes advance-year bloc program grant allocations once or twice a year, it needs only one or two press releases to do so. CPB might well finance an occasional audience research or program schedule evaluation effort, independent of PBS or NPR, to assist its accountability role in the overall priority-setting process. But this should not require a full department duplicating that of the licensee-based institutions, who collect such information on a regular basis. In these and many other ways, CPB can move to a lean staff, supported by the resources of the entire system as well as outside experts when it needs independent advice.

We recognize that H.R. 9620 does no more than state a principle of reducing administrative overhead, which remains to be fleshed out by this Subcommittee

and its Senate counterpart in the process of adoption of legislation in this field. We believe this statutory mandate, along with the President's message repeating a consistent principle of this Administration in all federally funded programs, will generate a positive response on the part of the men and women who serve on the CPB Board. The President's first two nominees to that Board, in Senate confirmation hearings last week, heard that message strongly repeated by the Chairman of the Senate Communications Subcommittee.

We have not proposed more drastic measures, such as earmarking administrative costs or setting a personnel ceiling, in the belief that such determinations should be made by the CPB Board with appropriate general guidance. But we recognize that Congress will want to reexamine this situation and determine what course it believes is both effective and proper.

6. Radio and television programming for national distribution is given a specific statutory allocation within the planning process, but the percentage is set so as to insure ample funds for strong local programming as well. The need for domestically produced, high-quality national programming of the stature of imported programming was a theme repeated throughout the hearings. The President firmly believes that this is a special and intended role for a significant portion of the federal funds provided to public broadcasting.

As this Subcommittee knows, the CPB appropriation currently provides less than one-third of the local public system revenues. The rest, predominantly from state and local governments and individual contributors, goes mostly to local stations. Under this bill, at the authorized funding levels the Administration has proposed, public broadcasting must raise up to \$450 million in non-federal funds. These will primarily go to local radio and television stations for local purposes.

If these funds are not being used for local programming, those stations must answer to their local contributing community for that, since local service is the rationale for their licensing by the FCC. And H.R. 9620 would provide that community with better information on which to base their evaluation.

At least a substantial portion of federal dollars, however, ought to be used to insure that public broadcasting can foster American creative talent and provide it with a national showcase. Representatives of the American creative community uniformly testified to this need. We have recently seen what can be done when talent, time, and adequate funds are provided. Two weeks ago, the right to show the "American Short Story," first produced for PBS, was sold to the BBC for \$70,000.

We do not think most public stations disagree. They recognize that each station cannot individually produce programs to serve all the diverse needs of their communities and that funds must be aggregated in substantial amounts for national programs to do so. Such programs provide a strong base to encourage audience contributions that allow them to do more local programming.

Nevertheless, the President is not asking that all federal funds be used for nationally distributed programming. In fact, the 25% figure chosen for the National Programming Fund was specifically based on projections showing that, if the system so decided, between 50 and 60% of the federal funds could continue to pass directly to the local radio and television stations for discretionary use without cutting into the amounts CPB has projected as needed to continue to underwrite the physical cost of the radio and television network facilities. This would also leave CPB fully adequate funds to carry out its other functions with the diminished overhead we have proposed.

We recognize the importance to local stations of these pass-through funds. A substantial portion of these are, in television, returned by the stations to create a separate pool of funds—the Station Program Cooperative—for national programming. The President has not invalidated this process. In fact, he has urged the stations to match the 25 percent specifically reserved for national programming with another 25 percent from their pass-through funds.

Assuming public stations were to heed this call, putting a total of up to \$100 million from both sources into national programming by fiscal 1982, this would still represent less than one-sixth of the total public system revenues in that year. And if total radio and television CSG's stayed at the same percentage of the total CPB appropriation, the amount left for local programming purposes in fiscal 1982 after the amount the President calls for had been used for national purposes would still be between \$50–60 million—only slightly less than the total CSG amount in fiscal 1978.

This bill does not set a specific floor or ceiling the amount to be used for CSG's. Again, this would be a matter for the licensees and CPB to determine through agreement and report to Congress as part of their forward planning. But we again stress that H.R. 9620 intends that this be a cooperative process that fully includes the radio as well as television licensees.

7. Public broadcasting's own planning process would now include facilities funds formerly administered by HEW as well as national program funds, CSG's, and other elements of the CPB appropriation. Better coordination and planning for effective use of facilities funds was a key issue in the Subcommittee's hearings. The President believes that this should be part of public broadcasting's own planning process, and Secretary Califano agrees.

Every witness that testified on this subject agreed that the first priority for these funds should be to deliver public television and public radio to as many citizens of the United States as technologically feasible at a rational cost. The President agrees that it simply does not make sense to put new and substantial federal taxpayer funding into this system without requiring a comprehensive and coherent plan for physical development to reach as many taxpayers as possible. This may be done by new stations, by upgrading a UHF or FM signal, by cable radio or television, or by translators.

A second goal stated in the legislation is the increase in minority control of public station facilities. In some cases, this may be totally consistent with the first goal, as in the case of a Chicano group currently applying for the first public television station in the Rio Grande Valley, or a Native American or Black group that may seek to extend public radio service to a rural area. In other cases, it may require a trade-off, as in Howard University's application to provide an alternative public television service to Washington, D.C.

But this goal can achieve more than simply service by and for minorities in a particular geographic area. As such stations come into existence, their leadership will move into the decision-making councils of the licensee organizations, achieving greater minority participation in the overall planning process of the system.

A key boost to achieving fuller minority participation is H.R. 9620's extension of the facilities grant program to planning grants. These would underwrite the costs of preparing the legal, engineering, and ascertainment studies and similar up-front costs that precede an application for actual construction. The lack of such funding from HEW has often frustrated not only minorities, but also other community-based groups who seek entry to the public broadcasting system. CPB has in the past few years started a planning grant program for new radio stations in unserved major markets. This bill would allow the facilities funds appropriated to CPB to be used for such purposes, and for new television facilities planning as well.

Finally, this bill would open the facilities program to nonbroadcast technology that could allow stations to develop into telecommunications centers using broadband, ITFS, and videocassettes and discs. The legislation allows CPB to make modest first steps in this direction during the next two years for which funding is authorized—fiscal 1979 and 1980—and even to fund such distribution of public programs and services by non-station-affiliated educational entities. But until a fully developed plan for the next five years, to parallel the bill's proposed CPB authorization for other purposes, is completed, it is our intent (we hope eventually reaffirmed by this Subcommittee) that the bulk of the facilities funds should continue to go for station and signal expansion.

The Administration recognizes that to accomplish all of these purposes will require a facilities program that is more substantial than at present. But right now we simply do not have sufficient concrete data on which to evaluate the costs and benefits of such a program. The Administration is prepared to study and recommend to Congress funding for the fiscal 1981-85 period after public broadcasting, acting with the advice of national educational associations and minority group representatives, has developed the comprehensive plan required by this legislation.

8. The local public will have increased opportunity for participation in the planning process. When local licensees participate in the joint planning process with CPB over allocation of CSG's, facilities funds, and national program funds, CPB's basic accountability is to Congress and the licensee's basic accountability is to its community. Again, in their independent aggregation of national program funds, or in their other cooperative ventures through PBS and NPR, the licensees are accountable to the local public. Finally, in their individual decisions as to local use of both federal and non-federal funds, this relationship continues.

This Administration has concluded that the creative freedom and journalistic independence of the public system is best fostered by further insulating CPB from too direct actual or potential accountability to the federal government for individual program decisions. In this spirit, we have not endorsed specific mandated categorization and line-item funding of preferred program types, whether those be public affairs, children's, adult education, or similar worthy goals stated in the President's message.

But H.R. 9620 would increase the potential for the public to play a larger role in seeking a direct accounting of stewardship from their local licensees. By mandating open public station board meetings and open financial statements, the bill would provide opportunities for local community partnership with their stations in developing both local and national programming priorities. These would be translated through the stations into the cooperative planning process on the national level.

At the Subcommittee's hearings, PBS testified that over two-thirds of its members already held open board meetings. We wish to insure that these provisions do not impose unreasonable burdens not commensurate with their benefits. We do not want to foster endless disputes over what is or is not a "board meeting." And we do not believe private legal rights of action should be created by this legislation that would subject licensees to court challenge. We look to work with Congress, CPB, and the licensees to insure that these sections are clear in intent and effect.

9. CPB and its grantees must undertake affirmative efforts to insure participation of women and minorities in their activities. The Subcommittee has held ample hearings on this issue. We look to you, as stated before, for future guidance in this area. The Administration has proposed to statutorily resolve the legal debate over whether the nation's anti-discrimination laws apply to CPB and its grantees by so stating in its bill. It has left further elaboration of this obligation to the Subcommittee, at the Chairman's request.

10. CPB will be required to inventory funds granted to public broadcasting by federal agencies in order to take these decisions into account in its own funding process and to enable it to act as a clearinghouse for information for producers seeking additional funding sources. Both independent and station producers testified to the difficulty of finding a single door within the system through which they could obtain information about available federal agency funding for public radio or television programming. The Administration is also concerned that there is inadequate cooperation and coordination among federal agencies, CPB, and the distributing networks, PBS and NPR, as to program funding. While we will continue to work on reforms within the Executive Branch, it would be a significant step forward if CPB annually collected data about all federal agency grants since no federal agency has as appropriate an interest in doing so. Through this process, CPB should be in a position at any time to tell a potential producer what resources are available, for what program types, throughout the federal government.

In addition to these changes in the structure, planning, coordination, and accountability of public broadcasting, we have proposed an additional step to foster the journalistic independence of the public system—lifting the current ban on a public station's ability to editorialize on issues of public importance. Public licensees are fully subject to the fairness doctrine, including any editorials they may air. We are not suggesting that all public stations should editorialize. Indeed, we remain convinced that those stations licensed to state and local governmental entities should remain barred from this activity because of their potential lack of adequate insulation at the non-federal level.

But, particularly with the further insulation steps that we propose at the national level, we cannot see why simply because a station bases its revenues on the sale of commercial products it either has a greater right or takes a greater risk in editorializing than one whose funds are supplied by a mixture of individual, foundation, and corporate donations and federal funds passed through by CPB.

The President's message fully articulates his belief that public broadcasting can and should provide a significant service to the American public, in ways not fully provided by the commercial medium.

Having stated all of these points so positively, I must candidly address the question: Yes, but how do we know it will all work in such a smooth and cooperative arrangement? The simple answer is that we can never be absolutely sure. We do believe that the present system is not working adequately and that

these steps would stimulate a new relationship between public broadcasting entities, independent producers, minorities and women, and the audience. But the always inescapable risk that this approach will not achieve its goals has led us to provide in our bill for leveled funding after two years of increased advanced authorizations and appropriations.

We know that simply based on inflation public broadcasting will want to argue for authorizations for fiscal 1983-85 that exceed \$200 million. But we believe that a leveled authorization for these years is the best alternative either to now enacting ever-escalating authorizations without a clear planning process that defines future system goals and needs, or to breaking the valuable principle of advance-year authorizations that allow public broadcasters a base for their forward planning and confidence in the continuation of their future.

Through leveled funding, we insure a review by us and Congress of whether these changes in fact do achieve their ends two years after the bill is passed. We do not expect in two years there will be no tensions whatsoever in the public system. But we do expect that those tensions will be more productive, resolved by constructive consultation and planning, and based on greater access and diversity.

Finally, we have not attempted to address by legislation every concern raised in the Subcommittee's hearings. There are certain areas where we believe it is difficult to legislate creatively and flexibly. We can propose a process where we hope creativity will flourish, but it is hard to legislate creativity. We can propose legislation that encourages the use of new technology, but it is difficult to force its use. The issue of access to the public broadcasting satellite, for example, is one which seems uniquely impervious to specific legislation over the five-year period.

In some areas, while legislation is possible, we are as yet uncertain how far to go or what to use as specific models. The area of non-federal sources of funding—corporations, individual contributions—we have not addressed, except that the President has called for more funding participation by states. Nor have we mandated any particular local or state licensee structure, except to call for greater voluntary efforts by states to better insulate their stations through independent boards.

Non-federal funding and local licensee structure are two issues that we understand the Carnegie Commission on the Future of Public Broadcasting is currently studying. They are also further studying potential spurs to greater creativity and new technology, including access to the satellite. We believe that these matters can rationally await the Commission's report so long as we and Congress move on the critical issues the President has addressed. We hope that after further study this Subcommittee will come to the same conclusion. But we will try to work constructively with you on such issues if you find them ripe for inclusion in public broadcasting legislation for the coming year.

We have examined one of the Subcommittee's central concerns—whether there is a total alternative form of federal financing such as special licensing fees, taxes, or tax check-offs that should be applied to public broadcasting—and concluded not to recommend change at this time. The complete analysis of such alternatives, how they would operate, and how much they would raise has not been recently undertaken by public broadcasters, now has any substantial national constituency been built either within or outside public broadcasting for such a shift. Again, the Carnegie Commission has substantial private funding to undertake such a complete study, and we recommend that any final decision on this subject await their report.

Carnegie's January 1979 target for its report on future system funding needs and methods also fits our proposal for leveled authorization after two years under this bill. If Carnegie makes a persuasive case for re-evaluation of these levels based on a clear conception of where public broadcasting is headed, and if we also have before us the results of the system's own five-year planning process, we believe more rational judgments as to future funding sources, methods, and levels can be made.

I thank you for this opportunity to appear before you. I will try to answer any questions you may have today, and we will also be prepared to supplement the record with answers to any additional written questions you may have.

Mr. VAN DEERLIN. Thank you, Mr. Lloyd, you are more than co-operative. Mr. Gore?

Mr. GORE. Thank you, Mr. Chairman. I want to begin just by saying that it is really good to get this kind of a proposal from the White House. During the campaign President Carter talked about his commitment to public broadcasting, and whether we agree or disagree on some of the details of the proposal, and whether we agree or disagree on how effective some of this plan is going to be in bringing about your objectives, I think we can all agree that the President has followed through on his pledge by committing some very talented people to work full time on the improvement of the public broadcasting. He has devoted a lot of attention to it himself. He has directed his staff to devote a lot of attention to it. It needs this kind of attention, and I think you are all to be commended for putting this much effort into the proposal and I am awfully glad to see it.

I want to talk about the funding levels. My feeling is that the actual dollar amounts are just not adequate to get the job done. Under this bill next year the public stations are actually going to have to raise more money through these song-and-dance routines with straw hats, canes, and tin cups on the television screen. That is not what public television is supposed to be. It is not what it should be. But, under this bill they are going to have to do more of that, and I was hoping that we could come up with a proposal that would avoid as much of that stuff as we now have.

If we are going to do it, let us do it right and give them an adequate amount of money to do the job. But the way I figured, and you correct my mathematics if I am wrong, the present funding level is \$152 million. With the 2.5 ratio, this works out to \$380 million. The proposed level next year is \$180 million. With a 2.25 ratio, this works out to \$45 million. So they have to raise more money. Of course, a lot of them are not meeting the maximum now. But under this bill they are to raise more in the first year in total non-Federal funding than they saturated with these action auctions and special buy your public broadcasting programming this week only, special sale on good programs. Am I off base there? Are you looking at that differently than I am?

Mr. LLOYD. You are correct. The figures require public broadcasting to raise more in the first year in total non-Federal funding than they did in the immediately preceding year. By reducing the match ratio from 2.5 to 1, to 2.25 to 1, we have, however, lessened that burden significantly. It would have been a lot harder and the efforts would have had to have been increased dramatically, to reach these figures at 2.5 to 1.

CPB, PBS, and NPR gave us their projections of what they could raise in those years. We have set both the authorization levels and the match ratio in sync to insure we are setting them about where they say they can meet non-Federal funding levels. The President, in addition, has stated that while he is continuing these patterns, he again commits within 2 years, when the Carnegie Commission reports, and when we have had 2 years of experience under this bill, to reexamine the match ratio and the matching concept. This is stated in the President's message. We feel they can meet this for the first 2 years of the legislation. We believe there should be a reexamination after 2 years.

Mr. GORE. Well, to some extent, the logic of a 5-year authorization is in conflict with your heavy reliance on the event of the Carnegie Commission report as a peg to hang your hat on when you come back in 2 years. If you know these levels are inadequate now, and you know they will be inadequate 3 years from now, certainly, then I think you should be straightforward enough to propose what is really required for the task.

But concentrating on the ratio for a moment, a lot of people who have studied this program believe that a 2-to-1 ratio makes a lot more sense. I am one of them. Such proposals have been floating around for quite a while. Is it just an accident or a coincidence that 2.25 is halfway between the present ratio in that proposal?

Mr. LLOYD. That proposal was presented to us, and we looked at it, and these particular authorization levels would have at a 2 to 1 ratio, in fact, decreased the amount public broadcasting would have had to raise in the transition year. We felt there is, and the President feels there is, some validity at least currently, to the matching concept, the concept that this is a matching of the public demand for this good.

Mr. GORE. Sure. I agree with that.

Mr. LLOYD. As long as there is a matching concept, there ought to be a reach each year based upon projections the system comes up with of how much they can raise; 2.25 to 1 was set very definitely with this particular funding level in mind, and also the figures provided to us by the stations. If the Congress changed the levels that we propose in order to meet system projections, they might also have to change the match ratio. We believe both these levels and this match ratio are the correct ones, but that is certainly something at which Congress will have to take a hard, strong substantial look.

We will supply, for the record, the system's projections of non-Federal financing they can raise in these years in order to meet this match.

[The following letter and staff paper were received for the record:]

OFFICE OF TELECOMMUNICATIONS POLICY,

EXECUTIVE OFFICE OF THE PRESIDENT,

Washington, D.C., December 6, 1977.

Ms. CAROLYN SACHS,
Subcommittee on Communications,
Washington, D.C.

DEAR CAROLYN: During Frank Lloyd's testimony before the Communications Subcommittee, he offered to furnish the "tripartite task force report" for the hearing record. Please find a copy of that report enclosed.

Table 10 on page 13 shows projected public broadcast income fiscal year 1977-1985. As you will see, under a 2.25-to-1 ratio, public broadcasting could match the amounts H.R. 9620 would authorize. Please bear in mind that the match is based on monies raised during the second previous fiscal year.

If there is any other information I can provide, please let me know.

Sincerely,

ROBERT SACHS.

Enclosure.

PUBLIC BROADCASTING FINANCES: PROFILE AND PROJECTIONS

This report profiles public broadcasting's present status and projects its financial prospects for the next decade.

PROFILING THE PRESENT

In fiscal 1976, public broadcasting completed its first decade of Federal support for its operations. Public broadcasters operated more radio and television sta-

tions than ever before and surpassed all previous figures for hours of programming, audience and income; yet they still faced many problems which have existed since the passage of the Public Broadcasting Act in 1967.

A review of public broadcasting's financial status in Fiscal 1976 (the last year for which full, though unaudited, preliminary data exist) and an analysis of the trends producing that status can provide the basis for projecting what the future may hold.

Public broadcasting income

Public broadcasting's total income—about \$412 million—can best be analyzed by clustering sources under three general headings: Federal; Non-Federal, Tax-based; and Non-Federal, Non-Tax-based (table 1).

TABLE 1.—PUBLIC BROADCASTING INCOME, FISCAL YEAR 1976

[Dollar amounts in thousands]

	Public broadcasting	PTV	Radio
Total.....	\$412, 075	\$361, 379	\$50, 696
Percent.....	(100. 0)	(100. 0)	(100. 0)
Federal.....	114, 030	97, 802	16, 237
Percent.....	(27. 7)	(27. 1)	(32. 0)
Non-Federal.....	298, 036	263, 577	34, 459
Percent.....	(72. 3)	(72. 9)	(68. 0)
Tax based.....	171, 350	147, 207	24, 143
Percent.....	(41. 6)	(40. 7)	(47. 6)
Local.....	34, 427	29, 465	4, 962
State.....	91, 814	88, 434	3, 380
State colleges.....	45, 109	29, 308	15, 801
Non-tax based.....	126, 686	116, 370	10, 316
Percent.....	(30. 7)	(32. 2)	(20. 4)
Private colleges.....	5, 370	2, 863	2, 507
Foundations.....	22, 988	22, 237	751
Business.....	29, 105	28, 335	770
Subscribers.....	42, 449	38, 190	4, 259
Auction.....	11, 864	11, 598	266
All others ¹	14, 910	13, 147	1, 763

¹ All other includes a variety of smaller sources: subsidiary income, special fund-raising activities, advertising in program guides, and the like. Though cumulatively significant, this heading includes a number of smaller income sources not broken out in detail in the tables in this report.

Source: Preliminary, unaudited CPB data based on annual financial reports of public television and radio licensees and other organizations.

Federal sources include not only the Congressional appropriations for CPB and the EBFP but also grants from other Federal agencies, such as the Office of Education of HEW, the National Endowments for the Arts and for the Humanities, and the National Science Foundation. In fiscal 1976, Federal sources accounted for almost 30 percent of total public broadcasting income.¹

Non-Federal, Tax-based sources are dependent upon taxes levied by state or local governments and come either directly or through community or state colleges and universities. Due to the nature of public broadcasting licensees, funds from different sources in this category are often interrelated. In fiscal 1976, Non-Federal, Tax-based sources were the largest category of public broadcasting's income, providing over 40 percent of the total.

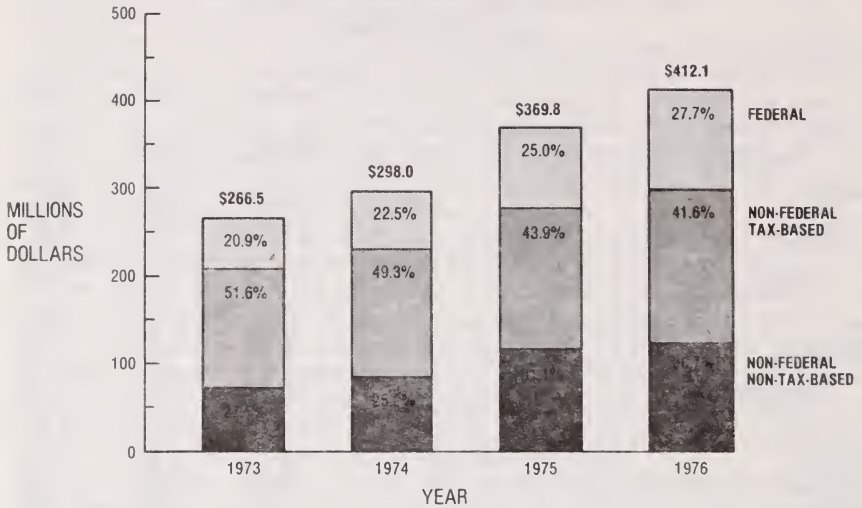
Non-Federal, Non-Tax-based sources of income include private college licensee support, grants from businesses and foundations, and direct support of public stations by viewers and listeners through subscriptions, auctions, and other direct fund-raising efforts. In fiscal 1976, Non-Federal, Non-Tax-based sources provided over 30 percent of the income for public broadcasting.

The basic source of data on local income is the annual report of financial data filed with CPB by licensees and other public broadcasting entities.

¹ Since the fiscal 1976 data are preliminary and as yet unaudited, some changes may occur before final certification. Even so, the changes should be minor.

The 1976 income sources were reported according to standards concerning income and its valuation worked out under the Public Broadcasting Financing Act of 1975. In order to identify patterns of change in public broadcasting's income, consistency in data is required. To make fiscal 1973-75 data consistent with the 1976 figures, adjustments to the previous data were made for elements of institutional support and non-broadcast income which were not reported in those years. These adjustments bring the 1973-75 data closer to the real total income for those years than was shown in those years' annual reports. Once adjusted for consistency, the numbers can be used to develop trends in income for the period, fiscal 1973-76 (table 2).

FIGURE 1.—Adjusted Public Broadcasting Income, by Major Sources, 1973-76.



Source: Adjustments to CPB Data.

TABLE 2.—ADJUSTED PUBLIC BROADCASTING INCOME

[Dollar amounts in thousands]

	1973	1974	1975	1976
Total.....	\$266,538	\$297,973	\$369,813	\$412,075
Percent.....	(100.0)	(100.0)	(100.0)	(100.0)
Federal.....	55,585	67,005	92,341	114,030
Percent.....	(20.9)	(22.5)	(25.0)	(27.7)
Non-Federal.....	210,953	230,968	277,472	298,036
Percent.....	(79.1)	(77.5)	(75.0)	(72.3)
Tax based.....	137,640	146,828	162,385	171,350
Percent.....	(51.6)	(49.3)	(43.9)	(41.6)
Local.....	31,186	33,984	32,917	34,427
State.....	65,597	76,442	91,399	91,814
State college.....	40,859	36,402	38,069	45,109
Nontax based.....	73,317	84,140	115,037	126,686
Percent.....	(27.5)	(28.2)	(31.1)	(30.7)
Private colleges.....	3,141	3,979	4,168	5,370
Foundation.....	20,450	17,875	28,683	22,988
Business.....	11,064	18,325	25,885	29,105
Subscribers.....	17,920	23,059	22,216	42,449
Auction.....	7,515	8,559	10,131	11,864
All others.....	13,223	12,143	10,798	14,910

Source: CPB data based on annual financial reports of public television and radio licensees and other organizations. Data for fiscal 1973-75 based upon calculations of institutional support and nonbroadcast income for these years.

Figure I illustrates how the different categories of income have grown at different rates. The Federal share of total income has grown consistently during the 1973-76 period, while the Non-Federal, Tax-based income has declined. Non-Federal, Non-Tax-based income about held its own as total income rose. The most substantial increases in the Non-Federal, Non-Tax-based category have been in the income from subscribers and business; this voluntary income of public broadcasting has not only grown but also diversified.

Rapid inflation characterized the 1973-76 period. To understand public broadcasting's real growth during this period, it is necessary to correct the adjusted income data for inflation (table 3). In constant dollars, public broadcasting's income for 1973-76 grew less than 21 percent, or at a rate of about 6.5 percent compounded annually; this is significantly less impressive than the current dollar growth of almost 55 percent, or over 15.5 percent per annum. In fact, Non-Federal income actually lost ground to inflation between 1973 and 1974, and Tax-based, Non-Federal income actually declined in constant dollar terms during the three-year period. The bulk of Non-Federal income growth has been in Non-Tax-based income and most of that—indeed most of the growth in total income—took place between 1974 and 1975.

TABLE 3.—PERCENTAGE INCREASE OF ADJUSTED PUBLIC BROADCASTING INCOME

[In current and constant dollars, 1973-76]

	1973-74		1974-75		1975-76		1973-76	
	Current	Constant	Current	Constant	Current	Constant	Current	Constant
Total.....	11.8	0.7	24.1	13.8	11.4	5.3	54.6	20.7
Federal.....	20.5	8.6	37.8	26.3	23.5	16.7	105.1	60.1
Non-Federal.....	9.5	-1.4	20.1	10.1	7.4	1.5	41.3	10.3
Tax based.....	6.7	-3.9	10.6	1.4	5.5	-3	24.5	-2.8
Nontax based.....	14.8	3.4	36.8	24.9	10.1	4.4	72.8	34.9

Source: CPB data, same as table 2; bureau of Labor Statistics figures for CPI.

After correcting for inflation, the importance to public broadcasting of its Non-Federal, Non-Tax-based income becomes obvious. Since Non-Federal, Tax-based revenues actually declined when corrected for inflation, the basis for increased Non-Federal income for public broadcasting during the period 1973-76 was its voluntary support, independent of taxation. Given the principle of relating Federal funding to Non-Federal income, this voluntary support was thus the basis of increasing public broadcasting's income, Federal as well as Non-Federal.

PUBLIC BROADCASTING COMPARED WITH OTHER BROADCASTING SYSTEMS

Public broadcasting's income, adjusted or not, lags far behind that of other major broadcast systems. American commercial broadcasting spent over thirteen dollars for every dollar spent by public broadcasters in 1975 (table 4). Preliminary data for 1976 indicate that public broadcasting remains financially behind. FCC data indicate that each of the American commercial television networks spent more money for programming alone in 1976 than public broadcasting's income from all sources, at all levels, for both TV and radio.

TABLE 4.—U.S. PUBLIC BROADCASTING COMPARED WITH U.S. COMMERCIAL BROADCASTING

[Dollar amounts in millions]

	1973	1974	1975
Public broadcasting income:			
Total income	\$266.5	\$298.0	\$369.8
Public television	241.2	266.6	330.0
Public radio	25.3	31.4	39.8
Commercial broadcasting revenues:			
Total revenues	4,966.7	5,384.6	5,814.1
Total broadcast expenses	4,203.6	4,562.2	4,948.2
Commercial television	3,464.8	3,781.5	4,094.1
Broadcast expense	2,811.7	3,043.2	3,313.8
Commercial radio	1,501.9	1,603.1	1,720.0
Broadcast expense	1,391.9	1,519.0	1,634.4
Public broadcasting income (and expense) as a percentage of commercial broadcasting:			
Total	5.4	5.5	6.4
Broadcast expense	6.3	6.5	7.5
Television	7.0	7.1	8.1
Broadcast expense	8.6	8.8	10.0
Radio	1.7	2.0	2.3
Broadcast expense	1.8	2.1	2.4

Sources: CPB data; FCC Annual Broadcast Financial Reports.

American public broadcasting still receives less support than major foreign non-commercial systems. In 1975, the latest year for which data are available, American public television's per capita income was just over a third the BBC's, under a third of NHK's, and less than one seventh the CBC's (table 5).

TABLE 5.—TELEVISION SERVICE COSTS BY SELECTED COUNTRIES

	Total	Per capita
1. U.S. public television, 1975:		
Public TV system revenues	\$330,039,000	\$1.54
Federal appropriations	80,108,000	.37
2. U.S. commercial television, 1975:		
Broadcast revenues	4,094,100,000	19.16
Broadcast expenses only	3,313,800,000	15.51
3. CBC (Canada) television, 1975:		
Broadcast income ¹	283,233,000	12.42
Broadcast expenses ¹	259,380,000	11.37
Parliamentary grant for TV ¹	223,269,000	9.79
4. BBC TV (United Kingdom), 1975: All TV expenses	241,950,000	4.31
5. NHK TV (Japan), 1975: All TV expenses ¹	555,941,000	5.01

¹ Estimated.

Sources: CPB data; FCC Broadcast Financial Data 1975; CBC "Annual Report, 1975-76"; BBC "Handbook, 1976"; NHK "Handbook, 1976-77".

In radio, American public broadcasters were even worse off compared to other public systems. NHK spent more than six times as much per capita as American public radio and the BBC more than eight times as much. The CBC, with national services in two languages, spent seventeen times as much on radio as public broadcasting here (table 6).

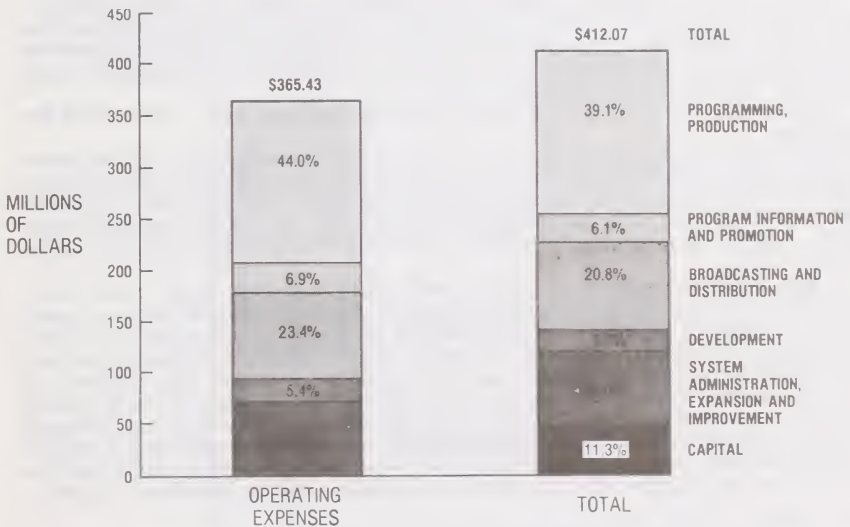
TABLE 6.—RADIO SERVICE COSTS BY SELECTED COUNTRIES

	Total	Per capita
1. U.S. CPB-qualified public radio, 1975:		
CPB-qualified public radio system.....	\$40,043,000	\$0.19
Revenues.....		
Federal appropriations.....	12,233,000	.06
2. U.S. commercial radio, 1975:		
Commercial AM-FM broadcast revenues.....	1,725,000,000	8.07
Commercial AM-FM expenses only.....	1,634,400,000	7.65
3. CBC (Canada) radio, 1975:		
Radio income ¹	80,820,000	3.54
Radio expenses ¹	74,013,000	3.24
Parliamentary grant for radio ¹	63,709,000	2.79
4. BBC (United Kingdom); 1975: Radio expenses.....	92,108,000	1.64
5. NHK (Japan), 1975: Radio expenses ¹	138,985,000	1.25

¹ Estimated.

Sources: CPB Data; FCC Broadcast Financial Data 1975; CBC "Annual Report, 1975-76"; BBC "Handbook, 1976,"
NHK "Handbook, 1976-77."

FIGURE II.—Total Public Broadcasting Allocations, Fiscal Year 1976



Source: CPB Data.

Allocations

In addition to analyzing public broadcasting income, it is important to determine how public broadcasting allocates its resources. Current allocations may be divided into several broad categories of functions performed on both the national and local level (figure II). These categories then allow comparisons between allocations on the national and local levels (table 7).

TABLE 7.—FISCAL YEAR 1976 TOTAL PUBLIC BROADCASTING ALLOCATIONS

[Dollar amounts in thousands]

	Total expenses			
	National		Local	
	Amount	Percent	Amount	Percent
Programming, production.....	\$70,159	66.1	\$90,721	29.7
Program information and promotion.....	7,704	7.3	17,638	5.8
Broadcasting distribution.....	11,944	11.3	73,712	24.1
Development.....	1,141	1.1	18,355	6.0
System administration, expansion and improvement.....	13,016	12.2	61,036	19.9
Capital.....	2,147	2.0	44,512	14.5
Total.....	106,111	100.0	305,974	100.0

Source: CPB data based on annual financial survey.

Two assumptions were made in calculating the allocations:

1. That public broadcasting expenses and income can be treated as equal over time;

2. That the data reported from annual financial reports to CPB provide a satisfactory base from which to calculate the costs of both purely local services and services performed at local stations for national purposes; and furthermore, that experience allows these data to be refined to categorize some expenses beyond the detail required by the reports.²

In analyzing the allocations of public broadcasting resources, three points are apparent:

1. The bulk of public broadcasting's funds go into programming and its direct support. Of the total system's resources, two dollars out of three (and three of four operating dollars) go directly into the production or acquisition, the distribution or broadcast, and the promotion of television and radio programs. This shows a high concentration by public broadcasting of resources directly on its single product.

2. The national elements of public broadcasting are even more concentrated in their focus on programming than those on the more diversified local level. Almost 85 percent of the resources expended by public broadcasting on the national level is concentrated on programming and its distribution and promotion.

3. Public broadcasting does not have an excessive overhead. The category of System Administration, Expansion and Improvement includes not only classic "G & A" management costs, but also national efforts at planning, technological research, personnel training (including equal opportunity programs for women and minorities), and coverage expansion. Less than one dollar in five of the system's resources goes into this broad management and improvement category.

The facilities program

The allocations figures indicate that about one public broadcasting dollar in nine is spent on capital goods. The Educational Broadcasting Facilities Program (EBFP) of the Department of Health, Education and Welfare has provided important capital support for both the expansion and upgrading of public television and radio since 1963 (table 8).

² To check on these assumptions, more than 10 percent of the local station managers in both radio and television were questioned regarding the refinement problem.

TABLE 8.—EDUCATIONAL BROADCASTING FACILITIES PROGRAM PROFILE OF PROGRAM REQUESTS, FISCAL YEARS 1963-76
[Dollar amounts in millions]

Fiscal year	Pending applications		Applications received		Applications considered in fiscal year		Grants award		Authority	
	Number ¹	Amount	Number	Amount	Number	Amount	Number	Amount	Public Law	Section
1963-67			235	\$61.0	235	\$61.0	161	\$32.0	87-447	
1968	74	\$29.0	0	0	0	0	0	0	90-129	
1969	74	29.0	51	8.0	125	37.0	15	3.2	90-129	
1970	108	30.0	21	5.0	135	39.0	40	5.4	90-129	
1971	89	23.8	96	19.7	185	45.5	57	11.0	91-97	
1972	119	30.9	76	11.0	195	42.2	69	13.0	91-97	
1973	77	18.9	84	17.2	161	36.1	78	13.0	91-97	
1974	87	21.9	121	26.2	208	48.1	74	15.7	93-84	
1975	114	25.4	79	18.1	193	43.5	62	12.0	93-84	
1976	100	31.1	121	18.1	221	49.2	73	12.9	93-380	
1977	92									4140

¹ Does not include applications returned during processing in previous fiscal years.

Source: DHEW.

HISTORY OF GRANT AWARDS
[Dollar amounts in millions]

Fiscal year	ETV activations			Expand/improve			Radio activations			Expand/improve			Total	
	Number of grants	Federal funds	Average grant	Number of grants	Federal funds	Average grant	Number of grants	Federal funds	Average grant	Number of grants	Federal funds	Average grant	Number of grants	Federal funds
1963-67	92	\$19.98	0.22	69	\$11.99	0.17	NA	NA		NA			161	\$31.97
1968	7	2.01	.29	6	1.10	.18	2	\$0.10					15	3.21
1969	11	2.70	.25	10	1.84	.25	9	.52			0.34	0.03	40	5.40
1970	12	4.37	.36	18	4.96	.27	12	.81			.86	.06	57	11.00
1971	10	3.30	.33	33	8.18	.25	7	.58			.94	.05	69	13.00
1972	8	3.20	.40	40	7.90	.20	10	.89			1.00	.05	78	13.00
1973	6	2.87	.48	41	11.08	.27	4	.34			1.38	.06	74	15.68
1974	5	2.19	.44	36	8.64	.24	10	.73			.43	.04	62	12.00
1975	6	2.56	.43	37	8.17	.22	9	.94			1.30	.06	73	12.98
1976														
Total	157	43.18		290	63.86		63	4.91		119	6.25		629	118.24

1 No funds appropriated this fiscal year.

Source: DHEW.

There has been a substantial increase in Facilities Program funding since Fiscal 1973. About one-third of all EBFP money disbursed since its beginning was expended during the fiscal years 1974-76, while the average grant in both media was also generally higher than before.

EBFP funds have been used to upgrade many public television stations to color capability in the last few years. This should continue, while EBFP grants can also be expected to be used to improve transmission in many areas over the next few years. In fiscal years 1973-76, the EBFP granted nearly four times as many dollars for television facilities improvement as for the activation of new services. On the other hand, in radio almost 40 percent of radio grants during the same period supported the activation of new stations.

EBFP grants have never covered all the facilities requirements of public broadcasting. Total EBFP grants in fiscal 1976 provided only one-quarter of the funds requested by the proposals processed. In fact, the total requested in each year's unfunded EBFP applications has for a decade consistently exceeded public broadcasters' capital expenditures in that year. In a consistently undercapitalized system the bulk of funds for facilities has thus had to come from sources other than the EBFP.

Summary of the profile

From reviewing all these data, a picture emerges. Public broadcasting income has increased in the 1970's; since fiscal 1973, Non-Federal, Non-Tax-based income has grown faster than Non-Federal, Tax-based income. Public broadcasting appears relatively efficient in focusing its resources on the programming for which it was created, despite remaining under-capitalized and committing a high proportion of funds to the base costs of maintaining a diversified and decentralized system.

PROJECTING THE FUTURE

This picture of the present status of public broadcasting, and of the trends leading up to it, provides the basis for projecting the future. Projections will be made in three areas:

1. Public broadcasting income;
2. Public broadcasting's allocations of resources;
3. The impact of Federal funding on public broadcasting's prospects.

The growth of public broadcasting

In order to project public broadcasting's income, an estimate must be made of the number of new stations to begin operation. The number of public stations continues to grow. This growth has been rapid in the 1970's and can be expected to continue into the mid-1980's. Furthermore, the satellite interconnection system—expected in Fiscal 1979 in television and in Fiscal 1980 in radio—should help encourage continued growth by providing more flexible distribution for expanding programming services (table 9).

TABLE 9.—PUBLIC BROADCASTING GROWTH PROJECTIONS, 1970-85

	Public television		Public radio number of qualified stations
	Number of licensees	Number of stations	
1970.....	129	200	96
1971.....	137	216	109
1972.....	145	233	132
1973.....	149	244	147
1974.....	152	253	159
1975.....	153	264	169
1976.....	154	270	176
1977.....	156	285	191
1978.....	158	300	203
1979.....	160	315	215
1980.....	163	330	227
1981.....	166	345	239
1982.....	169	360	251
1983.....	172	375	263
1984.....	175	390	275
1985.....	178	405	287

Note: TV, with a number of multistation licensees, uses the licensee as its basic financial and membership unit. Radio, with a more localized orientation and fewer multistation licensees, uses the qualified station as its basic unit for its financial and organizational structure.

Sources: PBS, CPB data for operating licensees and qualified stations, 1970-76; PBS, NPR projections for 1977-85.

The decentralized structure of public broadcasting prevents an accurate projection of the impact of the additional new stations on population coverage. Based upon the patterns of increase in stations, however, public broadcasting's continued growth in the next decade should add about one percent a year in income.

Income

Recent financial trends can be used to develop projections of public broadcasting income into the mid-1980's (table 10).

TABLE 10.—PROJECTED PUBLIC BROADCASTING INCOME, FISCAL YEAR 1977-85

[In millions of dollars]

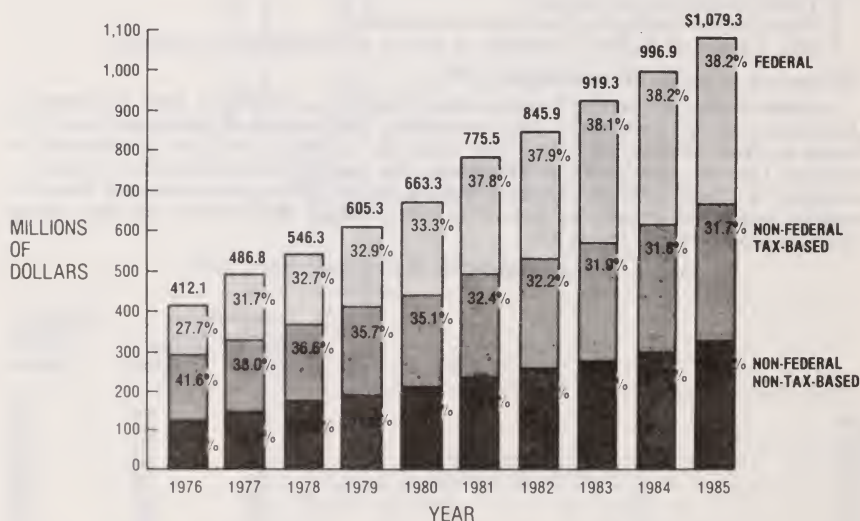
	1977	1978	1979	1980	1981	1982	1983	1984	1985
Tax based.....	\$185.0	\$199.8	\$215.8	\$233.1	\$251.7	\$271.9	\$293.6	\$317.1	\$342.5
Nontax based.....	147.3	168.0	190.1	209.5	231.4	253.1	275.4	299.1	324.2
Total non-Federal.....	332.3	367.8	405.9	442.6	483.1	525.0	569.0	616.2	666.7
CPB appropriation ¹	103.0	119.0	132.9	147.1	203.0	221.3	241.6	262.5	284.5
Non-CPB Federal.....	51.5	59.5	66.5	73.6	91.4	99.6	108.7	118.2	128.1
Total Federal.....	154.5	178.5	199.4	220.7	294.4	320.9	350.3	380.7	412.6
Total income.....	486.8	546.3	605.3	663.3	777.5	845.9	919.3	996.9	1,079.3

¹ Federal match ratio 2.5: through fiscal 1980, 2.0:1 from fiscal 1981 on.

Source: Task force projections.

FIGURE III.—Projected Public Broadcasting Income, 1977-85.

[Based on trends 1973-76]



Source: Task Force Projections.

In developing these projections, certain assumptions were made:

1. Inflation is assumed at a constant 6 percent per annum through fiscal 1985. Variations in inflation would, of course, affect the numbers significantly; a change of only 1 percent in the annual rate of inflation would mean a difference of millions of dollars in these figures by mid-1980's.

2. Additional stations are expected to generate a 1 percent annual increase in total income for the system. Variations in the rate of adding new stations would change the income projections, but such changes would likely be minor.

3. The satellite interconnection system is assumed to begin for public TV in fiscal 1979, for public radio in fiscal 1980. Estimates of the impact of the satellite are included within each of the areas on which projections are calculated, rather than in an overall projection of the financial impact of the satellite. This impact of the satellite could be underestimated, particularly if the FCC approves significant non-broadcast use of the satellites in support of activities of public broadcasting licensees.³

4. The fiscal 1973-76 trends in the funding of public broadcasting from Non-Federal, Tax-based sources allow for projections of only limited growth. However, technical or other changes leading to a new willingness of state and local governments to commit resources to public broadcasting could produce dramatic increases in funding from these sources.

5. The ratio of the Federal match will change in fiscal 1981 from the current 2.5:1 to 2.0:1.⁴

Figure III graphically presents these projections of public broadcasting's income through fiscal 1985.

Based on recent trends, even with the changed Federal funding ratio, public broadcasting's income growth will be modest. Projected income growth works out to about 11 percent per annum in current dollars. Given this report's assumptions on inflation and system expansion, this is equivalent to an annual real growth rate of only 4 percent. Thus, barring an infusion of additional Federal support, public broadcasting will likely remain in a status of slow but steady growth for the next decade, and will still face problems with funding in the mid-1980's.

Also apparent from these projections of income is this: at its current rate, public broadcasting seems unlikely to reach the appropriations ceiling authorized in the Financing Act of 1975. Growth in income from Non-Tax-based sources has been promising, but the growth in Tax-based income from Non-Federal sources has been disappointing.

Nevertheless, by the 1980's there is a chance that currently unpredictable situations, especially those having to do with special instructional uses of public telecommunications systems, might increase Non-Federal, Tax-based income above its projected level. Because of this, and as an additional incentive to public broadcasters to raise all sorts of Non-Federal funds, the proposed ceilings in the new Financing Act are set 3-5 percent above the level proportional to the income projected here.⁵

Allocations

Once income is projected, the next task is to project public broadcasting's future allocation of its resources.

In making these projections, current trends must be used. Such projections thus cannot define how public broadcasters will react to changes in priorities, or determine precisely the way resources will be allocated to implement new goals. However, these projections can indicate where current trends will take public broadcasting, and thus provide insight into the changes in allocation necessary to meet priorities not currently likely to be met.

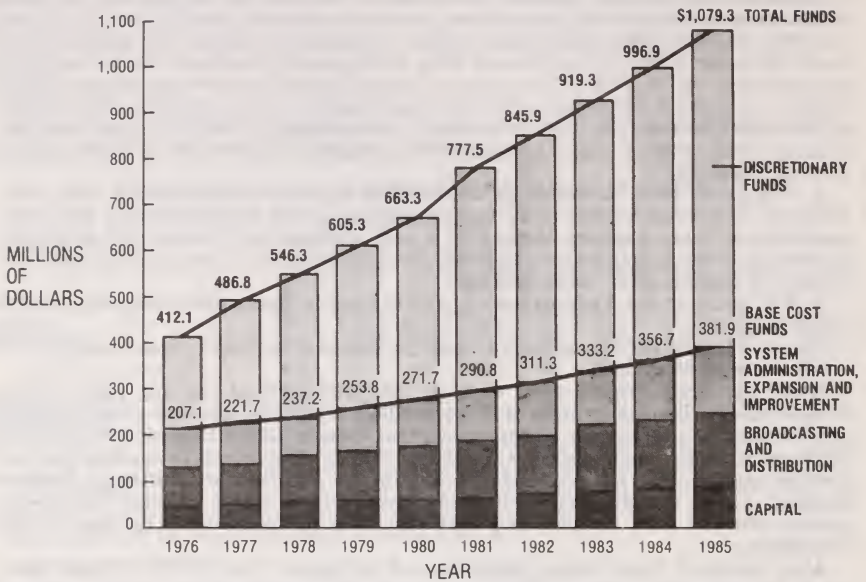
For the purposes of projecting allocations, current public broadcasting allocations are divided into two general categories: "Base Costs" and "Discretionary" expenditures. Base costs are those necessary to sustain operations of the local stations and the national agencies: regular capital expenditures; necessary broadcasting and distribution costs, and administration, including related national training, research and expansion functions. "Discretionary" costs refer to program production and acquisition, promotion and fund raising.

³ Such FCC action would probably increase substantially the Non-Federal, Tax-based income of public broadcasting; it is in this and related non-broadcasting technologies that state and local government sources might well concentrate any new commitment to public broadcasting.

⁴ This increase in Federal funding will likely produce an increased Non-Federal income in subsequent years. No sound basis exists for an accurate projection of just how much additional income would result, so the figures in Table 10 are uncorrected for this impact. The figures are thus probably somewhat conservative.

⁵ The proposed ceilings for the 2:1 match are: \$210 million for fiscal year 1981; \$230 million for fiscal year 1982; \$250 million for fiscal year 1983; \$275 million for fiscal year 1984; and \$300 million for fiscal year 1985.

FIGURE IV.—Projections of Base Costs, Total Public Broadcasting.



Obviously, public broadcasters cannot operate without programming, nor should they program without promotion. Programming expenses are thus not really discretionary. Nevertheless, public broadcasting organizations have sometimes reduced expenditures in the program area (e.g., by increasing repeats or acquiring instead of producing programs) in order to maintain operational viability. It is proportionately harder to cut back on base costs and continue to operate: capital must be expended when required, transmitters must be operated and basic staff paid, or there will be no basis for improved services later.

It is assumed that over the next decade public broadcasting can hold the increases in its base costs to under 7.1 percent. This is based upon increases at only the maintenance level (7 percent per annum, to account for inflation and expansion) for the normal "G&A" activities, and an increase of 8.75 percent per annum for those priority elements of better planning, improved training and recruitment of new personnel (particularly women and minorities), continuing efforts in technological research and development, and the expansion and improvement of the system's coverage in both radio and TV.

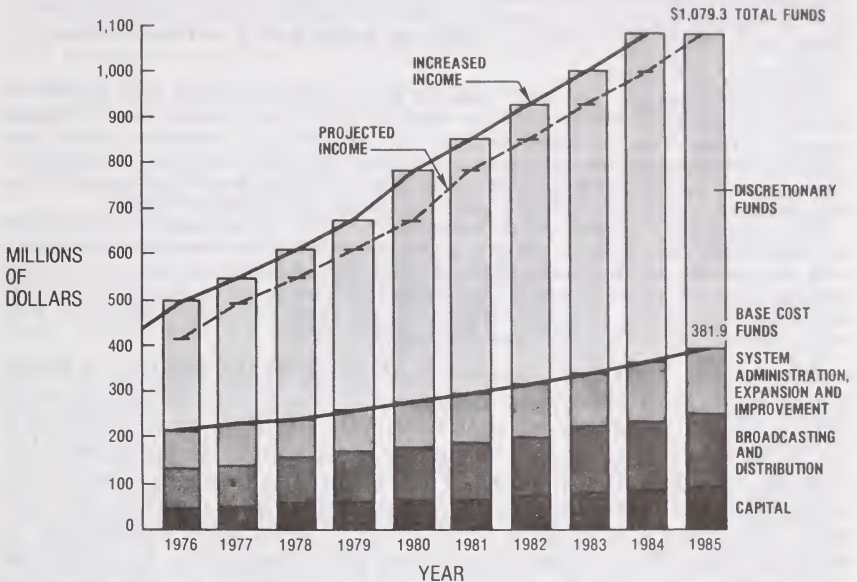
Figure IV shows public broadcasting's projected allocation of its resources through Fiscal 1985. Base costs should decline as a percentage of public broadcasting's total expenses in the next decade, and the share of funds available for discretionary uses should increase. In a system with almost \$1.1 billion to spend in Fiscal 1985, the discretionary funds available for programming and related activities, such as promotion and development, should well exceed 60 percent of public broadcasting's total income. This should give public broadcasters a far better chance of solving some problems that exist now, when only about 50 percent of system resources are available for discretionary uses.

No formal predictions are made here in this table as to the exact share of discretionary funds which public broadcasters will assign to programming, or to any other item. Priorities, defined in the planning process and adjusted under evolving circumstances, will determine that. However, public broadcasting currently spends more than three out of four (over 78 percent) of its discretionary dollars on programming. The national planning, research, and personnel recruitment functions assigned here to the category of System Administration, Expansion and Improvement, will likely get infusions from additional funds. So should capital expenses, particularly as public broadcasting activities move into the new non-broadcast technologies. Even so, the present allocation of about seventy-five

cents of every discretionary dollar to programming is probably a good estimate of what public broadcasters will continue to do.⁶

FIGURE V.—IMPACT OF INCREASED FUNDING.

[A Model Curve]



The impact of Federal funding

It is hard to overestimate the value of Federal funding to public broadcasting. A realization of the need for such support led to the passage of the Facilities Act in 1962 and Public Broadcasting Act in 1967. Even so, Federal funding provides a minority of the financial support for public broadcasting. As has already been noted, Federal sources provided just over one dollar in four of public broadcasting's income in Fiscal 1976; and even at the highest level of income projected in this report, they would still provide less than 40 percent.

Still, the impact of any significant increase in Federal funding is worth noting. These projections show one such increase in fiscal 1981, when the match ratio for Federal funds is assumed to change from 2.5:1 to 2:1. At least \$40 million of new Federal money would be added to public broadcasting income by the new ratio, and the vast majority of it should go into programming and other priority areas.

There are other ways to show how substantial the impact of significant increases in Federal funding would be. Figure V shows one simple example; the projected allocations for base costs. The impact—which symbolizes the result of fiscal 1981 in 1980, for 1982 in 1981, etc.) and laid over the curve of currently projected allocations for base costs. The impact—which symbolizes the result of substantially increased Federal funding at any time—is dramatic. In this simple model, for example, in Fiscal 1981 the base costs of the system would still be the projected \$290.8 million; but, if the income were \$845.9 million (now projected in fiscal year 1982), base costs would be only about one-third of the total income.⁷ Public broadcasters would have an additional \$70 million to spend; most would be spent on their discretionary priorities, with at least \$50 million likely to go

⁶ This assumption was reinforced by the reactions of the sample of managers interviewed in connection with this report.

⁷ Extra funds would no doubt go in part into base costs, but much less rapidly than these sorts of increases in funds; thus, such a ratio as this would likely be about right.

to programming. The same general pattern can be predicted under a rapid increase in Federal support under almost any circumstances.⁸

Thus, most of the impact of a rapid and substantial increase in Federal funds at any point in time could be brought to bear on the system's problems as generally perceived: shortfalls in needed program dollars; undercapitalization; slow staff growth, inhibiting an increase in the employment of minorities and women; and poor coverage and the related problems with signal delivery. Increased Federal funds would also have a multiplier effect of inspiring later increases in other funds, as a result of increased or improved programming and fund-raising.

Summary of projections

Public broadcasting can look forward to a slow but steady real growth in income of less than five percent per annum, with Non-Federal growth largely stemming from Non-Tax-based sources. The allocation of resources should continue in a pattern which will steadily increase the share of funds available for discretionary uses beyond the support of basic activities. Rapid increases in Federal funding would substantially increase these discretionary funds.

The long-range future of public broadcasting is in its own hands; its capacity to raise funds from diverse sources, particularly from its viewers and listeners, will remain the key to the viability of independent public television and radio systems. But the speed at which they can fulfill their promise, and at which they can solve their major problems, depends in the short run upon substantial Federal contributions to the public broadcasting enterprise.

Mr. LLOYD. Your first question is, if we know the funding is inadequate for a fully developed system, why do we not simply propose \$400 million a year with no match, or half a billion, or whatever it is we think the system needs. The answer is, we simply do not know what is fully adequate at this point. That is one of the reasons we are requesting in the legislation this 5-year plan of system development. Not only in 2 years will we have the Carnegie Commission report, but we will also have the system's own 5-year plan required to be submitted to Congress and the President by this legislation. It will set forth what are the goals they intend to achieve, and what is their perception of a fully adequate system. Is it a four channel television system provided through the satellite; is it two public radio stations in each community, one providing a classical stream, and another a public affairs stream? What is it? No one has defined a fully adequate system.

We hear, at your hearings, about a \$1 billion system, but we do not hear what are the components of that \$1 billion system, and we simply would like some answer to that before committing massive higher levels of funding other than the gradations that we have build into this particular legislation.

Mr. GORE. You have some good arguments on your side. I just think the evidence is clear presently that it needs more support, and I think the public broadcasting system is so important to this country that it ought to be supported at an adequate level.

But going to a second subject—the facilities proposal—you indicate that only 50 percent of the country is now getting public broadcasting. I represent a rural area which is largely uncovered. A lot of it is, and a lot of it is not. You propose \$30 million for facilities. I am glad you are moving this program into CPB from HEW. My question is, are you going to work to see the full \$30 million is appropriated?

Mr. LLOYD. I personally will commit to you that I will work to try to see that the appropriation comes as close to that as possible. Of course, that is a decision made through the administration in concert

⁸ The one exception, of course, would be if the additional Federal funds came through the EBFP and thus were limited to facilities.

with the Office of Management and Budget. I do believe that the Office of Management and Budget, who participated very directly and intimately in this process, understands the President's commitment as stated in the message to reach the remainder of the population, and understands this will require some substantial funding.

For the first 2 years after the transfer, we have proposed a continuation of the current \$30 million authorization level until we again receive a system-developed comprehensive plan of what are the future needs and how do they break down between radio, television, new technologies, nonstation educational uses. They simply are not before us now.

There is an area population study currently being undertaken by CPB, PBS, and HEW as to the signal coverage area of the existing public television stations in the United States. That is the study from which this 50-percent figure is beginning to emerge in preliminary studies, and once that information is available, we can specifically see what it would take to upgrade UHF signals, what will it take to increase power, and we would hope similar studies would be done for radio, so we can determine where higher transmitter power is necessary, where cable radio might take a 10-watt station and move it throughout a community. All of that we would like to see before we talk about a 5-year plan for 1981 to 1985 for the facilities program. But yes, you have my commitment that I will work as hard as possible to see that we are as close to that \$30 million level as we can get.

Mr. GORE. Excellent. I have one more question, Mr. Chairman. I am sensitive to having taken too much time. This deals with the area of duplication of effort, and you address that and say that you want to eliminate that. But really, you have only eliminated the overlap in funding between CPB and PBS in the area of programing, and there are three other areas I wanted to ask you about.

In the field of audience research, CPB has got \$585,000; PBS, \$259,000; public information, \$620,000, for CPB, \$902,000 for PBS; Government relations, about an equal amount for both, \$103,000 for CPB, and \$106,000 for PBS. Now you include a kind of general mandate to CPB to please reduce your administrative costs, but I would submit to you that is not a good substitute for really eliminating the overlap as much as you can. They have some difference in the missions they are asked to perform, and I am well familiar with that argument. But I do not think you have gone far enough, and I would like to ask you your reasons for leaving these other overlaps in there.

Mr. LLOYD. In the message, we have tried to state that we feel many operational program related functions, such as audience research, such as public relations regarding programing, could be moved out of CPB to the licensee institutions, to PBS and NPR. In the first area you have chosen, I think very clearly CPB ought to be able to do some independent research. It does have a role in oversight and priority setting that may require it occasionally to do a check and evaluation of what the television stations or radio stations are saying to them that their audiences want, or how much of an audience they reach, in deciding either between television and radio for funding or among different priorities. But that occasional effort, we believe, should be done to the extent possible out of house on an individual need basis and not in terms of building up a large and permanent staff.

The licensee institutions, PBS and NPR, have a need to do audience research on a continual basis and, certainly, in a system based on trust and cooperation, that information would be available to CPB and usable by it. Again, in the public relations, public information area it seems to us, as I have stated in my testimony, that if you are making grants on a multiyear or annual bloc basis and you are making those decisions one, two, or three times a year for future years, you have to put out very few press releases to announce those decisions, and that mode of operation should logically lead CPB to a reduction of these functions.

Government relations—I think that that is one area that this committee ought to feel that they have a great interest in and more expertise than we do, in looking at duplication. How much relations does this committee feel it needs from CPB and PBS and NPR? We leave that to you. But in all of these areas we have tried to send a message that is consistent with the message the President has sent as to all federally funded projects, asking for more leanness, less overhead, less bureaucracy.

We have resisted, as I said, earmarking this by setting numbers or figures. The committee's judgment may be different. Our judgment simply was that it would be sufficient to set forth the manner in which CPB ought to operate and then provide both Presidential and congressional intent as clearly as possible that functioning under this manner should not require a large topheavy staff.

Mr. GORE. I don't think it has gone quite far enough. But again, I do not want my criticisms to obscure my general applause for this initiative. I look forward to working with you all. I am delighted the President has committed the resources in the executive branch, and time, talent, and energy that the public broadcasting network needs, and I look forward to hammering out the details of this plan. Thank you, Mr. Chairman.

Mr. VAN DEERLIN. Mr. Marks?

Mr. MARKS. Thank you, Mr. Chairman. Mr. Lloyd, I would like to direct my few questions into a different area if I may. It has to do with the removal of the ban on editorializing. I first want to be sure, are the suggestions that the removal of this ban would include editorializing on political matters concerning political candidates for office as well as other areas?

Mr. LLOYD. We have removed that ban from the legislation, both as to editorializing on public issues and on candidates for public office. That is correct.

Mr. MARKS. Was there concern shown at the time as to what effect that might have on public running for political office? Where the editorializing would be coming out of the public broadcasting system, where people would not be so concerned that there may be selfish interests and, therefore, tip the scale so very greatly on one side or the other?

Mr. LLOYD. I see your point. As I stated in my testimony, the way we put the argument was, why should someone that is basing its revenues on commercial sale of products have a right to express its opinion on a matter of moment to the local community, and an institution that broadly gets its contributions from individuals, foundations, and where the Corporation for Public Broadcasting will insulate Federal dollars as we propose, why they should not similarly be able to express

that opinion with full adherence to the Fairness Doctrine and the opportunities for reply. I think that, as you will note in our legislation, we did feel the risk was very high in the cases of State-funded, State-owned, public stations, or local school board-owned stations, anywhere where there was local government ownership of the station. We felt that the potential for political interference of a State Governor, for example, urging a State system to urge his reelection, or at least the appearance that that was taking place, was too high a price to pay.

But we do want to get this issue on the table. We do believe that there is, ultimately, a very strong constitutional argument for parity between commercial and public broadcasters in the fields of journalism and editorial content. We want to work with you to look at whether that is a problem in public perception, and see if those risks are so great that we cannot take this step of saying that public broadcasting is mature enough.

People understand the diversity of its funding sources and its separation from the Government, and that it has matured and is as ready to take on this responsibility as its commercial counterparts are.

Mr. MARKS. There is no question, I gather from your remarks, that that was a serious concern of yours at that time and remains one.

Mr. LLOYD. Yes.

Mr. MARKS. If the so-called "journalistic independence" is one of the goals of this proposed legislation, why does the proposed bill retain in it, section 396, which requires strict adherence to objectivity and balance in all programs in a series of a controversial nature?

Mr. LLOYD. One reason that we have not moved to strike that, and again we would look to the subcommittee for assistance and guidance if it believes that that is a subject that we should take on, was that the courts have essentially rendered that provision a hortatory one for the guidance of the Corporation and the public system in its programming process. It has essentially been rendered to mean that the system shall be very careful to retain adherence to the Fairness Doctrine.

The public stations that we talked to said this section was simply not a concern to them in its operation, but it is interpreted by the courts as merely requiring what is required of commercial broadcasters—in a series of programs, over a period of time, there must be a rough equality of balance of competing viewpoints. They said that compliance with that simply had not caused them any problems, that they were being, they felt, balanced, objective and fair, and that they did not want to fight very hard for its removal in a battle that might be misconstrued as meaning that they wanted to be unbalanced, unobjective, and unfair. That was simply a decision we made after talking to many licensees about that issue. It is a concern we would like to address with you.

Mr. MARKS. Mr. Lloyd, there is another area that I would like to mention to you at this time. Many of the public broadcast licensees are governmental entities whose board is made up of the local board of education, or the board of trustees of a State university, even a State communications or telecommunications industry, and these entities will usually consider public broadcasting at the regular meetings as one of perhaps a number of items on the agenda. How would the open meetings provision apply to them?

Mr. LLOYD. Again, we would look to further clarification in legislative history, but it is our intent that it would apply to them only when they were meeting on a matter concerning public broadcasting, and, for that period of time that they were considering public broadcasting.

It seems to me, and this is subject to change during the process of legislative drafting and legislative history, that such a board would announce a week ahead of time that, at its regular meeting, it was going to consider the operations of its public broadcasting station license and it was going to do so between the hours of 3 and 4 p.m., and that the public was invited to attend, and participate or view that deliberation.

Mr. MARKS. I was also curious about how you would enforce such a provision as that in the way boards could take a look at the board of education. How are you going to say to them that they make an announcement between 2:30 and 2:45 we will discuss these issues, but after that you have to get yourself out of here?

Mr. LLOYD. CPB is called upon by the legislation to develop guidelines for how this would operate, which would become part of their grantmaking process to the licensees. These would be clearly understood by all licensees during the grantmaking process.

We are not looking to either have the FCC enforce this, or to create private rights of action in individual citizens to enable them to go to court and tie up local stations in endless litigation. We think the legislative history should clearly reflect this intent if Congress agrees with us that this is a proper goal, and something that we should move to require of public stations.

Mr. MARKS. Just one more question, if I may. I am sure that you were concerned in placing this in the proposal of the inhibiting factor it might have on those members of the board who are meeting. I must again assume that you obviously felt the inhibiting factors were not of such great concern to you as putting in the sunshine factors. At this stage of public broadcasting, have you personally, perhaps I should ask, been very concerned about this particular area and what it might do?

Mr. LLOYD. I think that public broadcasting is mature enough to be as open as Federal agencies or the Congress of the United States in its deliberations. During the hearings on public broadcasting held by this committee in September, PBS stated that two-thirds of its licensees already hold open board meetings, and that this would only affect an additional one-third of the stations. In fact, it usually works out that school boards and State licensees that you have described are the ones that already are subject to sunshine under State statutes and local statutes, and that the licensees that are not holding the open meetings are the community licensees, the private, nonprofit licensees.

Mr. MARKS. One last, last question, if I may. The proposed legislation as we see it is silent on the mechanisms for appointing board members on both the national and local level. Is it your feeling that no improvements are necessary in this regard, and as well, can the CPB Board ever be truly independent as long as the President appoints the majority of the board members?

Mr. LLOYD. As to the appointment process for the CPB Board, the President believes that, in this case, he should take this very unusual step of giving up the power to appoint the full board, and has agreed to propose to Congress that 4 places on the 15-person board should be turned over to the licensees—to at least some of the shareholders of the system—for their selection. The bill does not specify in great detail how this process is to take place. Again, we have left that for legislative history if necessary. But we feel the maximum flexibility ought to be provided the licensees to select those board members in any way that they feel is proper. We would assume they would not necessarily choose only from their own ranks of station managers and station board members. They might well seek to put an eminent journalist or writer on the CPB Board, one who shares their goals of insulation and commitment to the creative process.

But the President also believes that it is important that the President and Congress and the Senate look to those interests which may not be represented entirely by and through the station management, even with the increased accountability this bill would provide, and that they must look to some of the other shareholders in this system and perhaps fill these gaps by their own appointment process to the CPB Board. It is a mutual sharing of means of appointing people to the board and the responsibility to see that those persons, those men and women, represent the great diversity of this country.

As to the local level, we have not recommended any change in board structures at the local level be mandated by legislation. We feel that, at this point, we would be going into too detailed an involvement with local, State, and private licensee judgments as to how to structure their particular boards, and how to select them, whether by election or by appointment. Certainly we would like to work with the subcommittee on that question. We agree it is an important question, probably one of the most important questions. We are not sure we know the answers as to what precisely the best model for a local station is. There are so many kinds of licensees. What model would we propose—if we use the standard of broadly representative, is the school board elected by the people of that community a broadly representative board? It is a very difficult issue to face and answer. We are hoping the Carnegie Commission will look at this question. They have said they will look at the question, look at all the different kinds of local licensee structures and boards and try to come up with some models. Then, perhaps the President or Congress could put forward such proposed models for States to adopt, for local communities to adopt, that either provide for direct election of board members, or whatever. But at this point, we are simply not prepared to recommend legislation in that area.

Mr. MARKS. Thank you, Mr. Lloyd. Thank you, Mr. Chairman.

Mr. VAN DEERLIN. Mr. Markey.

Mr. MARKEY. I just have one question. Why does the administration bill set aside 25 percent specifically for national programing, but does not include any type of designation for local programing? One of the problems often commented upon is perhaps 8 out of every 10

Federal dollars in public broadcasting goes to the bureaucratic structure. Why have you not designated any of this money specifically on a percentage basis for use by local programing?

Mr. LLOYD. I am glad that you asked that. I have discussed that at some length with some numbers in the testimony. I will go through some of them now.

It is clear that the Federal Government provides only one-third of the funding for the public broadcasting system. The other two-thirds come primarily from State and local governments and individual contributors, with some from foundations and corporations. But the majority of it, the vast bulk of it, goes to the local stations. That is the non-Federal funding, and that funding, two-thirds of the funding in the system, is available for local programs.,

In addition, we have set this 25-percent figure at a level so that funds made available to the local stations directly, for whatever discretionary use, could in fact increase from the present 58-percent level of the CPB appropriation, it could go up slightly to around 60 percent at the figures we have looked at.

It seems that, when you look at the total picture, what we are asking is that one-twelfth of the total system revenues be set aside for high quality domestic national program production. We feel the record of the hearings you held was uniform with every member of the American creative community that came before the subcommittee testifying that this was a crying need.

There is a need for the fostering of American talent and a national showcase to show that. We feel that is not too much to ask, and we feel it clearly benefits local stations in their own local fund raising to do local programs, if they have a high quality schedule of national children's programing, of national educational programing, of drama, of history, of science. These are programs we feel the licensees recognize they cannot produce each individually at their local stations. This is the rationale for Federal funding in the first place, and we continue to feel it is important.

We know the stations will continue to aggregate their own community service grants in some high measure for local purposes. And, as I have stated in this testimony, at the levels proposed for fiscal 1982, even if not only 25 percent were set aside for national programing at the CPB level, but the stations also match that with another 25 percent for national programing, the amount remaining in community service grants they could use for local programing would be higher than the total amount of community service grants going to licensees today.

I think that the vast amount of money in the system is already available for local purposes. If local stations are not using those funds for local programing, that is a matter of accountability between them and their local communities. That is the rationale of their licenses, that they do provide local service, and our legislation will make it easier for the local community to find out that information and make an accountable relationship as to what proportion of this other five-sixths of the money is going for local programing.

Mr. MARKEY. I have no other questions, Mr. Chairman.

Mr. VAN DERLIN. Thank you, Mr. Moore.

Mr. MOORE. No questions Mr. Chairman.

Mr. VAN DEERLIN. Mr. Moorhead.

Mr. MOORHEAD. The President's message urges the FCC to improve UHF receivers. Yet we understand that economically more improvement could be made by getting the volume up, the power of the stations. Do you think it is wise to mandate individual costs go up when, for a much lesser cost you could improve the power the stations have that were making public broadcasts?

Mr. LLOYD. The President's message states he hopes the FCC will move quickly on that docket, and weigh carefully the very cost and benefit information you have stated. It is not that the President has come to a judgment one way or another on an FCC docket. That would be inappropriate. That is an independent entity. If there is a formal executive branch submission on that docket, it will come through the new Assistant Secretary of Commerce as a formal pleading. But the President was simply stating in that section that that FCC docket and the docket proposing to look at a table of noncommercial FM radio allocations are long overdue. They have languished for years, and it is time to come to a decision.

If we are going to go the route of increased power for UHF stations, then we simply have to know that for our planning for the facilities program over the next 5 years. If we are going in the direction of better receivers, we can save those costs out of the Federal direct budget. The President was simply saying, give us an answer so we can do some planning which way to go.

Mr. MOORHEAD. I am interested in the educational stations. I know many of them are operated by the local school boards. You have, in your legislation, requirements on open meetings and so forth. How will this affect the local school boards?

Mr. LLOYD. I think that we would like to work in the legislative history of this act to make sure that we reduce to the extent possible any burdens on licensees that are not commensurate with the benefits to the local public achieved. We have to be clear as to what burdens this will impose. We do not feel it will impose unreasonable burdens if defined to include only those meetings at which public broadcasting business is discussed.

We do not think the financial record provision will impose an undue burden, because each station already must provide that information to CPB as part of obtaining a community service grant. We are simply saying what it provides to CPB should be open for public inspection. There is no additional data collection or gathering proposed, and those reports are quite complete. We believe if the subcommittee examines those reports and the information they contain as to the station's finances, they will find them to be quite adequate for this purpose.

Mr. MOORHEAD. I think an examination of the moneys the various stations throughout the country have made available to them will show that these educational stations probably get a lot less than their counterparts in the public broadcasting area. Perhaps the justification is that they do not have as many people watching, but yet they fulfill a very useful purpose, perhaps a more useful purpose than the other, because they are in a field that is not otherwise covered. Is there any attempt going to be made to get more adequate financing from them, or will it depend upon the local public schools to basically provide that support?

One other thing is, they also usually do not have the access to outside funds other than through the regular educational financing the other stations do.

Mr. LLOYD. The legislation contains no set aside for instructional programing per se. The President, in his message, did state that he strongly believes that public broadcasting still has a role in both in school and adult instruction, and that lifelong learning should continue to be a goal of the public system. Now that may, perhaps, not always be most efficiently done by over-the-air broadcasting. It may be better done by instructional fixed television service, video cassette, or video disc. But I think there is no downgrading of that important goal in the President's message. We simply have felt that we should not get into the details of setting aside certain amounts for that particular purpose but we would encourage public broadcasting to continue to play a role in that area to foster instructional use of stations.

Mr. MOORHEAD. I have one last question, because the bells have rung and we will have to be leaving. But the proposed legislation is sound, and contains the mechanism for appointing board members on both national and local levels. Do you feel that no improvements are necessary in this particular area and, can the CPB board ever be truly independent as long as the President appoints the majority of the board members?

Mr. LLOYD. I think that CPB, as I have stated, should have accountability through the political process for a major portion of its board appointments. I believe there is a positive benefit to having the President and the Congress appoint a majority of that board. But I think it is important that licensees be included in participation in that board and that that would provide sufficient insulation so that neither this President, nor any President in the future, can attempt to dictate the content of individual programs for public broadcasting.

Mr. MOORHEAD. Thank you very much.

Mr. VAN DEERLIN. Staff counsel, Mr. Shooshan?

Mr. SHOOSHAN. Thank you, Mr. Chairman. If I could, I would like to have the record reflect that from the point of view of staff of the subcommittee, we had an extremely cooperative working relationship, particularly with Mr. Lloyd and Mr. Sachs and other people involved on this, keeping us apprised as to what they were doing and their ideas. It was a good give and take, and it is something we very much appreciate.

Perhaps at some point there was too much cooperation, in the sense that there were so many drafts going around, it was hard to tell which was the final one.

Mr. Lloyd, you have indicated on several occasions this morning that between now and the next year you may want to make technical amendments to the legislation. Some of them sounded technical, some of them may appear to be substantive as we have discussed them today. Are you going to be shifting from the position taken in H.R. 9620?

Mr. LLOYD. I think we should be clear that the President is committed to the recommendations and proposals stated in his message. I think that it would be, if we shift from those, a major step. We feel we have done the homework, we have done the groundwork. We are committed to the basic principles as stated in that message.

Now the bill, as you well know, is a technical document. Not the President, but the technicians, myself, and Robert and the staff of the subcommittee, must make sure it reflects what our principals believe in. If it does not, we would like to work very strongly to clarify and refine the bill and if convinced there are areas uncovered in which substantive legislation and amendment is necessary, we would like to work with you on those. I am not drawing a fine line.

Mr. SHOOSHAN. I wanted to make it clear what you would be doing in the months between today and whenever the subject is taken up again. Are you going to be continuing to meet with the parties involved in an attempt to resolve changes in the legislation, and if so, what is the role for the Congress in reacting to H.R. 9620?

Mr. LLOYD. We would like very much for the subcommittee to play a role in all discussions, to be continually apprised of any changes we are discussing with any interest, whether they be within the industry, in terms of the Corporation, the Public Broadcasting Service, National Public Radio, or the National Education Association and the Black Caucus. Many groups we are meeting with continually and we will continue to meet with those groups with an interest, to insure they have a full understanding of the message and the bill. If they have any feelings the bill is unclear, we would work—

Mr. SHOOSHAN. You want the opportunity to come back in at some point and perhaps make some changes to this legislation?

Mr. LLOYD. But we would expect those changes to be technical in most cases. They would be technical, clarifying, and refining. This is the administration's proposal, and we would like to work from it as a base.

Mr. SHOOSHAN. Fine. Turning to some more substantive questions, you alluded at one point in your presentation as to why we find no equal employment opportunities enforcement mechanism specified in the legislation when clearly that is the issue.

Mr. LLOYD. We agree, it is the key and critical issue. We would like, at this point, to put the letter in the record that the chairman sent to us requesting us to withhold formal judgment in the legislation on this kind of detail until the task force that has been set up, the interagency task force, has had a chance to report, and our letter in reply to him, stating that we would do that, and would apprise OMB of the reason we were doing that.

We would look to work with you on this, and we look for that to be one of the significant and not simply technical amendments.

Mr. GORE [presiding]. Without objection, the record will be held open for insertion of that material, but we want to make sure that the record accurately reflects the character of those letters. I am not sure there would be total agreement on that.

[The following correspondence was received for the record:]

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., September 27, 1977.

Mr. JAMES T. MCINTYRE,
Deputy Director, Office of Management and Budget, Executive Office Building,
Washington, D.C.

DEAR MR. MCINTYRE: It has come to my attention that the White House is currently preparing amendments to the Public Broadcasting Act which, among

other things, will attempt to clarify the equal employment opportunity responsibilities of public broadcasters. This has raised a concern which I would like to share with you.

Last year, the Subcommittee on Communications held hearings on the enforcement of equal employment opportunity and antidiscrimination laws in public broadcasting. We found that the EEO record of public broadcasters was shamefully inadequate, and that government procedures for oversight and enforcement were clearly ineffective. A full discussion of the Subcommittee's findings and recommendations is contained in a report on the hearings issued last April (copy enclosed).

Following the publication of its report, the Subcommittee requested that an interagency task force be established to look into solutions to the problems that the Subcommittee had found. The task force, which includes representatives of the Justice Department, the Federal Communications Commission, the Department of Health, Education, and Welfare, and the Equal Employment Opportunity Commission, is scheduled to complete its work by the end of the year.

My concern is that the Administration's preparation of proposed legislation on EEO responsibilities in public broadcasting could inhibit the freedom of task force members to examine alternative legislative and administrative remedies. I am not suggesting, of course, that the White House should refrain from proposing legislation in this area. On the contrary, the more attention that is given to improving the EEO outlook in public broadcasting, the more likely it is that a solution will be found. I simply seek your assurance that the Administration's adoption of a legislative package on public broadcasting will in no way undermine the work of the interagency task force or the ability of any of the participants to make whatever recommendations they see fit.

Thank you for your attention to this matter. I look forward to hearing from you.

Very truly yours,

LIONEL VAN DEERLIN,
Chairman, Subcommittee on Communications.

THE WHITE HOUSE,
Washington, September 30, 1977.

HON. LIONEL VAN DEERLIN,
Chairman, Subcommittee on Communications of the House Interstate and Foreign Commerce Committee, Washington, D.C.

DEAR CONGRESSMAN VAN DEERLIN: I am replying for Acting Director McIntyre to your letter of September 27 about equal employment enforcement in public broadcasting.

The Administration will shortly submit legislation which, among other things, clarifies the application of equal employment laws to public broadcasters. As indicated recently to your staff, we look to your task force for guidance on the details of the provision, so submission of this legislation will not commit the Administration to any specific approach on this issue. OMB has advised me they concur with this position.

Sincerely,

RICHARD M. NEUSTADT,
Assistant Director, Domestic Policy Staff.

MR. LLOYD. If we were not doing what the subcommittee had in mind in requesting us to hold off on that decision, we would be glad to discuss that with the subcommittee.

MR. SHOOSHAN. Mr. Chairman, thank you. I was going to ask that the letters, the exchange of correspondence, also be put in the record, because on page 2 of the letter to Mr. McIntyre, the letter answered by Mr. Neustadt, Chairman Van Deerlin said, and I would like to quote two sentences of that letter to clarify it, "I am not suggesting, of course, that White House should refrain from proposing legislation in this area. On the contrary, the more attention that is given to improving the EEO outlook in public broadcasting, the more likely it is that a solution will be found."

In short, the Chairman's concern was only that in developing your own position, you not undercut or undermine in any way the recommendation of the task force. They would be perfectly free to come out with their own recommendation. The letter was not to ask that the administration not take a position on what is, in fact, the crux of the whole EEO matter.

Mr. LLOYD. We felt that we would carry forth this by proposing legislation in public broadcasting on EEO. We proposed that there should be a clear statutory resolution of the first level issue, that is, does title 6 and title 9 apply to CPB and its grantees? We felt there was sufficient agreement on that with the subcommittee's report and the Justice Department's opinion, that we should move to write that into legislation.

We could have chosen to suggest an enforcement entity that we would have chosen, and then changed that in January to reflect what the task force had come out with.

Mr. SHOOSHAN. Or you could have taken a contrary position. After all, there are some independent agencies represented on the task force. That was the idea to get a number of recommendations here.

Mr. LLOYD. As you know, an earlier draft had had a recommendation that it be transferred to a specific agency and we took that out in the final draft, we believed in the spirit of response to this letter.

Mr. VAN DEERLIN. The Chair recognizes Mr. Wirth.

Mr. WIRTH. Thank you very much Mr. Chairman. Mr. Lloyd, we are glad to have you here. I am particularly delighted to see you as well staffed as you obviously are.

I have been a little surprised I think, Mr. Lloyd, at the somewhat say "frosty" reception this proposal has received, or the sense of a lot of questions being asked. The sense I get is that maybe people feel that they were on board as this was developed. Could you, for the record, give us a sense of who you consulted with, who you worked with in putting this together. Could you do that for us?

Mr. LLOYD. I would be glad to. Throughout this process, once the policy options I had prepared had been sifted and refined through the entire administration, through the White House domestic policy staff, the Office of Management and Budget, the Department of Health, Education, and Welfare, that process really came to a close around June. We then began going fairly public with the options we were considering, with an article in Broadcasting magazine and a speech at the NCCB Conference at Airlie House. We then went to the National Black Media Coalition meeting, a meeting of the National Federation of Community Broadcasters and the National Public Radio Conference, to try to make it very clear what we were doing and what issues we were studying, and asking for as much input as possible. At the same time, we were meeting with the representatives of the Washington-based organizations, CPB, PBS, and NPR.

At about the same time, we began exchanging information with the subcommittee staff here, and with the subcommittee staff on the Senate side. We also consulted with the National Education Association, the Joint Council for Educational Telecommunications which have a very great interest in the Facilities Act and what happens to that.

The process, I think, was possibly one of the most open ones I have participated in. As I said, during the time this subcommittee was holding hearings, we invited to the White House all of the independent station producers that were here as witnesses who had been called by the committee, plus others who were coming in from out of town. Their comment was, not only was it the first time that a congressional committee had asked the creative community what the issues were in public broadcasting and really reached out to those people who lived and died with the ultimate product programming, but that it was also the first time the White House had done that, and they felt that that was to the credit of both this subcommittee and the administration.

We did the same thing with the local station managers to assure we were not simply dealing with Washington-based organizations, but were having people from all over the country, both radio and television station management personnel, in to discuss this issue.

As I stated, we discussed it with minority group representatives during this period. I think that this was an open process of participation. We feel that there is no way you can write legislation to satisfy each and every interest to the full extent involved in public broadcasting.

I think what is being applauded, and what I feel very strongly, is the importance of having a proposal on the table, a positive thrust so it can be worked on and refined and dealt with. I have heard no one who has disagreed with that proposal. This is one area in which we ought to, the President should have spoken. This is an area where the President should have proposed legislation, and this is the right time to do it so we have it on the table, before Congress has adjourned, for all to study further.

MR. WIRTH. As one member of the subcommittee, I agree with what you have said. You have done a very good job, and you have certainly bent over backward to keep me, as a member of the subcommittee, informed of what you were doing.

I would also associate myself with the remarks of Mr. Gore earlier this morning, in which he talked about the great deal of time and emphasis that went into this from the White House. I think that is very commendable, and we are off, I think, on the right kind of foot.

The reason I used the word "frosty reception" is it has come to me from a variety of places, particularly from up here, some skepticism about this. I wanted to be sure there was a sense of the process you went through that was on the record and that everyone is aware of that.

Let me jump, if I might, to some specifics. First of all, related to funding. In the 10 years of public broadcasting discussions there have been lots of attempts to find alternative funding sources. Are you not trying to address yourself to that at this time? Are you leaving that to the Carnegie group? Could you talk about that a bit?

MR. LLOYD. Certainly. We did conduct an initial examination of alternative funding sources. We looked back to the original Carnegie Commission report, to the 1973 task force on long-range financing that public broadcasting set up which examined all the different options for funding, and at that point recommended the advance authorization and appropriation with a matching ratio solution, after studying all the alternatives.

We also talked to CPB, PBS, and NPR, and their representatives on their joint 1977 task force to recommend new funding legislation as to whether they would study these alternative funding sources and make recommendations to the administration and Congress. They made that study, I believe, fairly briefly, and came to the determination they would recommend only a continuation of the existing process, 5-year advance authorization, 2-year advance appropriation, and a match ratio.

We feel two things are missing. First, the really hard analysis of these alternative systems.

Mr. WIRTH. That is missing?

Mr. LLOYD. That is missing. How they operate, how much money they would raise, and who would they offend, and who would they help, and what are the equities involved? That kind of really detailed study has not been done.

Second, the constituency——

Mr. WIRTH. Do you think that kind of study ought to be done? Who should do it?

Mr. LLOYD. I think it ought to be done. I think it is crucial. Both the Carnegie Commission which, as I say, has taken on—this is probably the centerpiece of its study to be out in January 1979. It is devoting \$1 million to \$2 million in non-Federal funds to studying this and similar funding issues, such as corporate funding and the risks of other kinds of non-Federal funding, along with some other issues of technology and structure. But this is one of the centerpieces.

I think that we should give them a chance, not only to make the case, or to show that no case can be made, but also to see whether there is a constituency, because that is the second missing ingredient. We could not find a constituency for that change.

At your hearings, the AFL-CIO did come forward and say they would support a tax on commercial broadcast revenues, or licensing fees. I believe that was the first time I had heard that from that constituency. If that is true, I think Carnegie can help to either look at that analysis, find out whether it makes sense, and to find out if there is a constituency.

Mr. WIRTH. Effectively, the responsibility for looking at alternative sources is left to Carnegie, is that right?

Mr. LLOYD. Not only is it the Carnegie Commission, but also the 5-year development plan that CPB, PBS, and NPR must go through. We should make explicit in legislative history that we expect them to address that question.

Mr. WIRTH. Does that need a bigger push, do you think, from this subcommittee? Should we make it more explicit? I find myself in agreement again with Mr. Gore's comments this morning. I think people are tired of this song and dance—"let us entertain you, let us make you smile." approach to public broadcasting to raise money, that we are continually into that.

There is a tremendous amount of very good effort going into trying to do that. In these ratios, we are not really changing it very much, in the margin we are tinkering with it. But it will still be a reality of public broadcasting. You have that problem, and just the major problem of Government interference over and over again. He who controls the purse strings is going to rule.

Mr. GORE. If the gentleman will yield.

Mr. WIRTH. I would be happy to yield.

Mr. GORE. I would like to add that I believe one of the functions of the executive branch is to build constituencies, not simply to go out and search for little building blocks of political support, but to define the right solution to a problem and to take these tough questions, purpose answers to them, and then seek to build a constituency that will support that answer. And I share Mr. Wirth's concern that there is a limit to how long we can put off facing up to the really tough components of it. I welcome your comments, and I thank the gentleman for yielding.

Mr. LLOYD. I would stand by saying we feel in this case that Carnegie is well launched on studying that issue, and if constituency building is necessary, they will identify it.

Yes, if we choose to endorse any such proposal, we will certainly have to build a constituency. Carnegie will not be able to do it. We will then have to make a strong effort to build that constituency.

Mr. WIRTH. I guess I would not leave that to Carnegie and the Commission, to build a constituency in a political organizational sense. Certainly, there are a lot of people across 250 million Americans who are subscribing already to public television. They are a natural constituency.

There are a lot of other people concerned who write to me every day about violence on commercial television, and maybe they don't know about public television. They are national constituency, the areas in Mr. Gore's district, which are not served are a potential constituency, and the job is to coalesce that, and that becomes an organizational job. It becomes a job it seems to me you all have.

Also, that has to be behind any kind of an alternative funding proposal. It is very, very important, and it seems to be at the root of this, and we are again kind of ducking the basic funding issue which is, it seems to me, at the bottom of all of the issues we are talking about here.

Mr. LLOYD. I think that we would like to work jointly with Congress with this. If you feel it would be better to put an explicit requirement in the 5-year development plan, that that plan come up with a full study of alternative funding—

I think one of the problems has simply been that we talk about whether the executive branch should build a constituency, or whether the congressional branch should build a constituency, but it is up to public broadcasting, if it wants to have an alternative funding source—to have some sort of funding that is truly insulated, truly long-term—to build its own constituency. And that has been, as I say, the frustration of trying to ask for that case to be made, and that information provided. I share your concern and I would support clarification of the development function to insure that that plan must include some kind of examination not simply by the Carnegie Commission, but by the system itself.

Mr. WIRTH. Mr. Chairman, I would hope we, as a subcommittee might address ourselves to that. I think that, as I have said before, that funding issue is so much at the root of many of the problems that public broadcasting has had that it seems to me it is time we, as they say "bite the bullet" on that issue, or at least attempt to do so.

I have a variety of other questions. I don't know what kind of timing you are on, Mr. Chairman.

Mr. GORE [presiding]. Please proceed, go ahead.

Mr. WIRTH. I wanted also to ask you about the facilities issue. The President has said, or your statement of goals has said, that you want to extend the reach of public television stations. How can you do that, say in an area like Mr. Gore's district, where he pointed out this morning, 50 percent of the district is not covered by public television? How can you extend that if you only keep the level of the funding at a \$30 million level, and how do you go about doing long-range planning which you also say is one of the goals. We all agree that is one of the good things to do, but you only have 2 years of funding. So there seems to be some contradictions built into that.

Mr. LLOYD. The one difference is, at this point, the two programs are out of sync in terms of their funding cycles. You are looking at fiscal 1981 to 1985 for CPB. There are no 1979 and 1980 authorizations for the facilities program at this point. We feel because of this we can act most efficiently and effectively to recommend authorization levels of \$30 million for fiscal 1979 and fiscal 1980, then require public broadcasting to develop a 5-year plan for the next 5 years during that period, and then Congress and the administration can look at a fully fleshed out plan—

Mr. WIRTH. You do not attempt to address that yourself, that was not part of your charter?

Mr. LLOYD. Certainly not. We do not, within the Office of Telecommunications Policy, have the resources to prepare such a plan. The AREAPOP study which was funded at, I believe, between \$100,000 and \$200,000 by CPB, PBS, and HEW has been going on for at least 1 year to examine these very technical questions of signal coverage simply in television.

Mr. WIRTH. But that is something that will come 2 or 3 years from now, the increased facilities and how we are going to go funding it. Can I ask you, also on the funding question, something about the 25 percent set-aside for national programming? What kind of a precedent do you think this sets for other kinds of set-asides? Should we then, have a set-aside for women's programming, or a set-aside for a black programming, or a set-aside, as Mr. Markey was asking about, for local programming?

Mr. LLOYD. We resisted the pressures for set-asides for specific categories.

Mr. WIRTH. What is the difference between national programming and women's programming?

Mr. LLOYD. We believe that national programming is one of those broad sources of programming that simply has so much diversity within it that it runs no political risk being specifically mandated, except to the extent that perhaps the question of the national/local allocation is one that is subject to looking at.

Mr. WIRTH. So diversity as a criteria to distinguish national programming from 10 percent going for women's programming.

Mr. LLOYD. I feel there is a difference. I feel the national/local issue is one that has traditionally been addressed in legislation affecting public broadcasting. It was addressed in the 1975 legislation. I think

we really do have an obligation to look at the aggregation of funds for national production. And I would like to emphasize that is production produced in a very diverse, decentralized manner. It is programming produced by stations for nationwide distribution. It is programming produced by independents, like the Children's Television Workshop, for national distribution. It might include a regional network program.

Mr. WIRTH. I understand all of that. I have real trouble with setting 25 percent as opposed to 20 percent, 30 percent, or any percentage at all. I also have trouble thinking about down the line, if we are going to say, by some kind of fiat, 25 percent goes to national programming, what happens 10 years out, or 5 years out when we get into that pattern where we get a Congress that doesn't like national programming and doesn't want that sort of thing and says, well, we will have 0 percent, or 5 percent. Isn't that putting a lot of discretion and authority over programming in the Congress in which, as one member of the subcommittee, and a Member of Congress, it makes me feel very uncomfortable that we are dictating in that fashion.

Mr. LLOYD. We simply feel that that is the kind of broad judgment that the Congress can make, that there is a need for national programming.

Mr. WIRTH. I guess I would like to see language that says we think national programming is important, and there should be emphasis on that. But getting into that kind of—just like we would say it is very important to focus on minority programming, or areas of high priority. But to start to define a specific amount, it will get you into potential thickets I do not think we want to get into.

Mr. LLOYD. I think the Government traditionally has looked at this issue, certainly the FCC looks at it, in terms of its localism requirement and vice versa. It is a broad kind of category that includes the whole range of women, minorities, public affairs, drama. We simply may disagree on that point.

Mr. WIRTH. Let me ask you one final question, if I might. What percentage of this 25 percent would go to NPR?

Mr. LLOYD. There is no fixed percentage in the legislation. We have resisted, once again, making technology tradeoffs. We do feel that that is a very difficult task that should be left to the cooperative development process between CPB, PBS, and NPR.

We have made clear in the message that this comprised both radio and television national programming, and that we have emphasized that public radio and public radio licensees are full partners in the process by which those funds are allocated. That has never been specifically stated before.

Mr. WIRTH. NPR is nowhere specifically mentioned in the legislation?

Mr. LLOYD. No; but public radio licensees are, and their national membership organizations. We have specifically not used the words National Public Radio or Public Broadcasting Service because the licensees may choose, at some future date, to select a different representative. These are independent nonprofit organizations, which have no Federal relationship or statutory authority.

Mr. WIRTH. By reference to public licensees, or whatever they are called, do you think that does the job and is the intent?

Mr. LLOYD. We believe the statute is specific, that they choose through a national organization they have selected. Again, PBS could change its name, NPR could change its name, the two entities could merge. We don't feel this legislation should so set in concrete those entities that they cannot have flexibility.

Mr. WIRTH. The thrust is, I am concerned, that public radio not get last shot, as it has for the last 10 years.

Mr. LLOYD. We are very concerned about that, and we feel by making them a full partner in this process statutorily, they will have that chance.

Mr. WIRTH. Thank you very much, Mr. Chairman. I think these are a couple of issues we haven't touched on, on overlap and foreign programing, but I would leave that for written questions of Mr. Lloyd.

Mr. VAN DEERLIN. You might get into overlap.

Mr. WIRTH. Fine; if we have some more time. Thank you Mr. Chairman

I am concerned. One of the major criticisms of which you are very aware relates to the history of overlapping between CPB and PBS; Right?

Mr. LLOYD. Yes.

Mr. WIRTH. One of the ways you are trying to get away from that is not to allow, as I understand it, CPB to get into programing in the way that it has before, therefore eliminating some of the program overlap between the two organizations. Is that correct?

Mr. LLOYD. That is correct. And not only the overlap between CPB, PBS, and NPR, but also its overlap with other grantees of program funds, be they a regional network or a production center.

Mr. WIRTH. What are you doing about overlap that we heard about in the hearings and that one hears about in general on legal staffs and public affairs staffs and overhead and all of that sort of thing, which is eating up a lot of scarce—or is reputed to be eating up a lot of scarce resources that hopefully ought to be instead going to content?

Mr. LLOYD. The President sent a very strong message, in his message to Congress, that he believed much of that could be eliminated. He did not recommend a specific amount or staff level or specify certain functions or division of functions. We feel that is something this subcommittee can properly take an even closer look at if they so desire.

Mr. WIRTH. There were no specific steps that you all found could be taken or should be taken? Was it your feeling there was a lot of overlap that should be eliminated in your analysis?

Mr. LLOYD. We stated that, to the extent the individual programing content decisionmaking function was pulled back, to refocusing CPB as a model foundation bloc grant maker, that the need for detailed and extensive public relations staff associated with that programing function, legal evaluation associated with that function, audience research, many of those functions might well be duplicative and delegated to the licensee institutions. But we gave these as examples, and we did not want to fix in stone the efforts of the CPB board members to deal with this issue.

But we met with the CPB board in an open forum, and stated this clearly as our intent. The two newest members of the board, as I stated earlier, also had this full message given them by the Senate

Communications Subcommittee chairman last week in their confirmation hearings, and we believe no more drastic means are necessary. The subcommittee may disagree.

Mr. WIRTH. Fine; thank you, Mr. Chairman.

Mr. VAN DEERLIN. Mr. Shooshan.

Mr. SHOOSHAN. Thank you, Mr. Chairman. I would like to follow up the question that Mr. Wirth asked you about overlap and, for the first time, as you indicated, the proposed legislation would give legislative standing to the national membership organizations. Yet, nowhere in the legislation are the roles of PBS and NPR defined. Why is that, and did you consider the wisdom of having, for example, in the case of PBS the manager of the interconnection also being a representative of the stations themselves? Is that wise, and did you consider those kinds of questions?

Mr. LLOYD. We considered them to the extent of looking at the question of whether legislation ought to address at all the roles of PBS and NPR, except as they represented the licensees in a cooperative process with CPB.

We determined that these were entities that were set up as private corporations by the licensees, independent of CPB, for the very reason that it was Congress intent that these functions be shielded from direct statutory control, that they be outside the CPB umbrella, and that that was, in fact, the proper mechanism.

If PBS wanted to be a membership organization, or to split off its program scheduling department into a separate entity which was owned by the licensees in some other fashion, I feel that that should be their decision.

Mr. SHOOSHAN. You did not feel there is a role for either the White House or Congress to play in charting those directions whether they are imposed as a matter of law, or simply dealt with?

Mr. LLOYD. I think to the extent that we deal with that, we should deal through our recommendations to licensees on how they utilize their funds, whether for local or national programming. That means, that affects how they put those funds back through the PBS cooperative, or through NPR.

NPR and PBS, as you know, operate in totally different ways. NPR is, in fact, a program producer, as well as a scheduler. PBS is not.

Mr. SHOOSHAN. Let me ask you a question at that point, if I could. Under the act as it now stands, could PBS be a recipient of a programming grant, the way you interpret it in the existing legislation?

Mr. LLOYD. Yes; under existing legislation?

Mr. SHOOSHAN. Under existing legislation.

Mr. LLOYD. I don't see any reason why it could not, since NPR does, and is under the same statutory section that PBS is. No, there would be no barrier to that in the existing legislation.

Mr. SHOOSHAN. It is made explicit in your legislation that, in fact, an organization like PBS could be the recipient of programming grants. Is that correct?

Mr. LLOYD. It is clear to the extent that we say "associations of stations." We meant by that either PBS or a regional network, or any other association of stations. PBS is included within that definition.

Certainly they could be chosen through this process to administer a programing fund, say, for step-ups of local production to national.

Mr. SHOOSHAN. Is there anything to prohibit the funding being directly used by PBS to set up its own program production capabilities and to get into the production of the programs?

Mr. LLOYD. I do believe the dynamics of the system will prevent that. I realize that is not a total answer.

Mr. SHOOSHAN. The thrust of my question is, we are talking about under this legislation making it clear that PBS could represent other stations, manage the interconnection and, explicitly have the authority to receive and do actual programing.

Mr. LLOYD. That has been the case with National Public Radio. National Public Radio has historically grown in a different manner.

Mr. SHOOSHAN. Is that a good thing?

Mr. LLOYD. I think that what we are seeing is an evolution in the case of National Public Radio. You are seeing a movement from that model away to increased production of national radio programing at local centers and at regional centers. I think the satellite will increase that. I think there are two built-in things that prevent that from happening either totally one way or totally the other way.

I would say yes, it may well be the system's decision. It may be the proper one, that PBS should have some portion of these funds to subgrant to other stations for independents or step-ups. But I do not see this system going totally to control by PBS, simply because there are too many strong producers within the system, both regional network and station producers, and independent producers who will be competing for that national programing fund. I think it is very unlikely that a substantial amount of those funds will be going to PBS.

Mr. SHOOSHAN. Your feeling is then, that those kinds of questions should be left to the system to develop answers to on their own.

Mr. LLOYD. Yes.

Mr. SHOOSHAN. On the question of journalistic independence which the President stressed so much in his message, and also I see was stressed in the press briefing given at the White House.

Mr. LLOYD. In response to questions relating to that subject—

Mr. SHOOSHAN. It is clearly a matter of concern.

The question was asked earlier about the removal of the provision that requires strict objectivity and balance and, as I recall, your answer was that that has been rendered largely hortatory by the Court of Appeals of the District of Columbia. Basically, the court read the responsibilities of public broadcasters to be really no different than the responsibilities under the Fairness Doctrine applied to commercial broadcasters. If that is the case, why not remove it altogether?

Mr. LLOYD. We had two concerns there. One was since that provision had been rendered hortatory, but at the same time there were, in the public and in Congress as well, many who believed that it served some purpose to remind the system that they should be fair and balanced, to take on that in the midst of this legislation would be unnecessary.

We evaluated that in discussions with members of this subcommittee staff, with members of the Senate staff, both majority and minority. We have done a long search of that issue, and we have searched because we feel that there is a potential risk for leaving that section in.

The question is, is that potential risk worth a major battle over the principle of objectivity and balance—with which no one disagrees in principle?

Mr. SHOOSHAN. Are you aware of the legislation introduced by Congressman Dornan of California which would address this particular subject?

Mr. LLOYD. I am aware of legislation that would go the other way in terms of mandating the FCC to enforce that section.

Mr. SHOOSHAN. So clearly we do have an issue here. I wanted to get a feel from where the administration comes down on this particular issue. You are saying you have not reached that point.

Mr. LLOYD. We were guided by the concern that that would not be something that would help make successful legislation. If it is the subcommittee's judgment that this will assist the legislation or will be doable, we can discuss that in the legislation.

Mr. SHOOSHAN. On a related point, you removed the ban for editorializing on stations licensed to a community group, a board, but not the other licensees which represent some 75 or 80 percent of the public broadcasting stations.

You referred earlier to the fact that at least part of your decision here was based upon constitutional principle. A principle is a principle. Why did you not go all the way and adhere to the language that the court of appeals stated in its recent decision in the *Community Service Broadcasting* case, for example?

Mr. LLOYD. I think the point in any equal protection dispute is whether it is a rational distinction, whether there are overriding public policy grounds that argue for a distinction.

Mr. SHOOSHAN. Of course that case also discussed first amendment issues as well.

Mr. LLOYD. Well, I think it based the first amendment claim through equal protection. I believe a rational distinction can be drawn between the two types of entities in terms of risks, in terms of overriding need for insulation. As your staff paper has pointed out, there is some risk that you are subjecting a station to increased pressures, and that State-owned stations may not be able to withstand them if you give them the right to editorialize. I think the line can be drawn between the two.

Mr. SHOOSHAN. On the constitutional question.

Mr. LLOYD. At this point I have not done the most thorough constitutional analysis possible under that recent court decision or past cases as to whether that distinction is supportable. It is my belief at this point that it is.

Mr. SHOOSHAN. On the question of the facilities program. The declaration of purpose in the legislation talks about nonbroadcast technologies and, in fact, the President's message talked about nonbroadcast technologies. And it seems the facilities program is, in fact, opened up to nonbroadcast technologies. However, while we are talking about opening up the facilities bill to nonbroadcast technologies, in fact, they are to be utilized to extend the basic broadcast system to this country. Is that a correct reading of your intention here?

Mr. LLOYD. Our intention was the bulk of funds going into nonbroadcast technology would be those used to extend the signal. I think

we made it clear in the message, but I have tried to make it far clearer in my testimony today, that we believe some modest portion of these funds, even in the first 2 years, should be available for use of nonbroadcast technology, even independent of extending the pure signal. But we do feel that——

Mr. SHOOSHAN. But again, the legislation does not speak to that.

Mr. LLOYD. Right. The uniform testimony at your hearing was that extending the signal was the priority. If we have not made it clear sufficiently in the legislation, that some portion can be used, by opening it up to nonbroadcasting technology, by opening it up to nonstation affiliated institutions, that we have made it clear that nonbroadcast technology can be pursued independently of extending a station's signal reach, whether through cable or whatever. If we have not made that perfectly clear——

Mr. SHOOSHAN. Your declaration of purpose seems to be in conflict with——

Mr. LLOYD. If we can make that perfectly clear we will, but we are talking about a priority for first, extension of the public radio and television signals.

Mr. SHOOSHAN. Again, the facilities program does not address, as you would have established it, any priority for radio as opposed to television?

Mr. LLOYD. That is correct. We feel that that should be a joint cooperative planning process. It may well be that because many major markets are unserved by public radio that the ultimate decision will be that radio is a very high priority and should have a very significant amount of the initial funds under this 5-year development plan.

We would like to see the figures and the reasoning.

Mr. SHOOSHAN. Let me get back to the question of new technology.

Under your legislation, could a block grant, or a programing grant made by CPB, go to a cable system directly for the production of programing? If so, could you cite me the provision of the act that would enable that?

Mr. LLOYD. The legislation would allow that. I am not sure the existing legislation barred that. It is my understanding CPB has long maintained it has authority under the current statute to fund programing to be distributed over cable and other nonbroadcast means. I think that we have——

Mr. SHOOSHAN. You change the definition in section 396G(2)(b). My question is, if that has been the practice of CPB in the past, and if you are talking about opening a system up to alternative types of facilities, why not, when you are amending that facility, make it crystal clear?

Mr. LLOYD. We thought we made it crystal clear by saying it could be the acquisition or production of public television or radio programs. And we did not use the word "broadcast" in "for national, regional, noncommercial distribution." We used the word "distribution" advisedly. We did not use the word "broadcast," and I remember that decision. We can make that absolutely clear in the legislative history, but I would point you to section 396G(2)(i) which gives CPB power to make grants or contracts for the use of nonbroadcast telecommunications technologies for the dissemination of public television or radio

programs. To make it crystal clear that it could do that, we added that section. It is a new section.

Mr. SHOOSHAN. I was talking about production as opposed to dissemination, however. Part of your concern with what CPB has not been doing is in the area of long-range planning, and as part of the 5-year plan, and as part of its planning function, you require CPB to consult with other Federal agencies or entities who are funding public broadcasting.

Would you consider going further and requiring, as some have suggested, all Federal contributions to public broadcasting to be passed through CPB? Would that not have provided an additional heat shield and provided for much more effective system planning on behalf of CPB?

Mr. LLOYD. We examined that alternative, and we received a rather uniform negative reaction to it from the Federal agencies affected. They felt they had specific missions in the statutory requirements that required them to see that programing was used for certain purposes from the public television and radio stations themselves. They felt a desire to have an independent source of Federal funds for programing, and that variety and diversity is beneficial. And CPB did not feel it wanted to necessarily take on this conduit function.

But we did make clear to the Federal agencies that, if we chose the other option of leaving them with the authority to make direct grants to public broadcasting, not through CPB, that we were going to look to develop with them guidelines to insure that there was institutionalized through regulation a heat shield. That is so that these agencies could not indulge in the kind of script review, sending Federal agency program monitors on-site or looking at rushes, that they would in doing an in-house propaganda film.

I think at this moment HEW has taken the lead in attempting to draft guidelines of this type. When we have their draft, I would like very much to sit down with the subcommittee members and staff and go through them and make that, again, a cooperative process.

Mr. SHOOSHAN. My concern was simply that, if we are concerned about providing greater planning responsibility for CPB, the tools be provided for them to do that planning. It is great to talk about independence of sources, but that in fact cuts against some kind of system plan you seem to want from CPB.

Mr. LLOYD. We have not opted for a monolithic system which is, of course, the ultimate planned system.

Mr. SHOOSHAN. I want to ask you a question in the area of public accountability.

Your legislation would make it clear that meetings of boards of public broadcasting stations would be open. Why is the legislation silent on the meetings of CPB, PBS, and NPR?

Mr. LLOYD. It is a good question. Because they presently have rules opening their meetings, we did not move to require that.

Mr. SHOOSHAN. What was the genesis of those rules as far as you know, Mr. Lloyd?

Mr. LLOYD. As far as I know, the genesis for CPB was numerous consumer groups who were concerned about that issue.

Mr. SHOOSHAN. And in part the thrust of the subcommittee.

Mr. LLOYD. And after that, there was substantial urging by the subcommittee that they respond to the concerns of those consumer groups.

Mr. SHOOSHAN. There is no question that they have responded admirably to those concerns, but the question is, if it is a good idea, why is it not written into the legislation?

Mr. LLOYD. I think that is the very kind of technical amendment we are talking about that makes a lot of sense.

Mr. SHOOSHAN. It is a technical amendment, but it has a lot of substance. I am sure people at the CPB would agree.

My last question goes back to the whole responsibility of CPB as you now see it, as someone providing block grants program. And the question as to the role of independent producers in that system. Clearly, what you are trying to do as I understand it is to take CPB out of the program-by-program review process. The concern here is that, obviously, if you are dealing with a known entity, like Children's Television Workshop, or NPACT, that you had a track record to go on. You could look at what CTW had done with the last block grant and say, "We can give them money; we know they will do a good job." What about the independent producer, the person with no proven track record at all? How are you going to see that he is effectively brought into this system?

Mr. LLOYD. I would like to say first that both Children's Television Workshop and NPACT were both entities once without track records who got substantial block grants.

I think that in many cases what CPB may have to do is to delegate that function, of selecting between independent producers, to another entity. Right now, both the National Endowment for the Arts and the Ford Foundation have made a joint grant to WNET's Television Laboratory. WNET's Television Laboratory may not produce any programs in-house with those funds. It must subgrant them to independent documentarians to produce those. I see the possibility that independent documentarians could themselves create an organization or group or structure to receive those funds from CPB and subgrant them among independents.

Again, this might be something PBS might do with a significant block grant.

Mr. SHOOSHAN. Do you mean you would also suggest that perhaps PBS be given the capability to decide in these block grants where the money should go as well?

Mr. LLOYD. I am just saying that is one of the several options. It could be PBS, it could be WNET's Television Laboratory, it could be an independently created entity of independent producers such as was attempted to be put together to receive this NEA grant.

The other thing CPB can do is, when it gives a grant for a category program and to a specific station production entity, they can say 50 percent of this money must be used out-of-house for independents. CPB has made such grants in the past. They could say to a station production center, or an independent production center, with a track record in science, that's fine, here is the block grant, we are putting one string on it and that is that 40 percent of this must go for out-of-

house independent producers who have never before produced for public television.

Mr. SHOOSHAN. At some point, is it not clear that whoever is making these decisions will have to be looking at specific programs or pilots or program proposals?

Mr. LLOYD. There will have to be some evaluation of either a track record or a proposal. That is simply a different process from after such a decision is made, following that process through to each individual program's production to the script and piloting stage.

Certainly, there is going to have to be some evaluation. We would hope CPB might develop out-of-house capability, even for that evaluation, through years of peer review panels such as at the National Endowment for the Arts.

Mr. SHOOSHAN. So you have recognized the need for this program development and process to go on, but that it should be moved as far away from CPB as possible.

Mr. LLOYD. One step removed.

Mr. SHOOSHAN. It is not that you are eliminating a function or a particular kind of overlap. You are just moving it from one box to another.

My very last question is, because of all of these kinds of things that have been raised here today, the fact that you are, by your own admission, willing to put so much reliance on what the Carnegie Commission comes out with, and also the system plan developed in-house by the public broadcasting people. Why a 5-year funding bill? Why not just 2 years?

No. 1, the system is funded through 1980 as it stands right now. Why not simply a 2-year extension of that funding which will allow advance year appropriations to continue and allow all of us to see the results of the Carnegie study and the plan which the system comes up with?

Mr. LLOYD. I think that might create 2 years from now a crisis atmosphere. The funding is running out next year.

Mr. SHOOSHAN. It may force some decisions to be made too.

Mr. LLOYD. It may force some decisions not to be made. As we have seen, the stress of the funding period makes public broadcasting very concerned that anyone examine their future direction or goals or planning.

We believe that a middle ground between a 4- and 5-year authorization with escalating levels and a 2-year authorization is one which says you are not going to disappear. You can have confidence that the Federal Government, that the President and Congress believe in you, and you should have a basic amount to plan 5 years in advance. But you have not given us all the figures we needed, all the data we need, to really set those amounts. So here is the \$200 million base. You know that is the authorized level. We will come back and discuss it. We can discuss it at a far more rational level of discussion than if, in that year, funding runs out the following year. If there is a known \$200 million base for the next year, we can have a very rational discussion of the issues.

Mr. SHOOSHAN. I will close my questions on this point, and I thank the chairman for being so indulgent as to allow me to pursue this line of questioning.

You talk about stress. If you read what has been said in the press over the last year, it would lead you to believe there is some stress existent in the system right now. Yet, before this committee last month, everyone sat around the table and said everything is fine. Don't you take a chance, Mr. Lloyd, that by locking all of this in for another 5 years and delaying these kinds of decisions, that you come back with a system plan that in fact says everything is fine the way it is?

Mr. LLOYD. I think you always take risks in this area. I think that the alternative is for us to, very concretely and in detail, try to write a system plan for these independent licensees. I believe that the alternative of a 2-year bill is directly contrary to what we would both like to achieve. I think it may well create a paranoid atmosphere that will reject any attempt at constructive change and constructive planning.

We went through a period like that, and public broadcasting achieved a 5-year forward base planning authorization. I think to break that cycle at this point would be a great mistake. We do not believe we are delaying these decisions. We think that Congress and the administration face some very important issues, and I think that we have gone a long way beyond those persons who appeared before you who said nothing should be done, simply more money.

I feel we have put forward constructive proposals with Congress. We can do something very, very substantial early next year, and I think we will be delaying only those decisions that it is appropriate to delay. We can discuss that further, but I do want to send a message that the President feels very strongly. We should send public broadcasting a message that you will not disappear, that we can have this discussion in a rational manner, and your base of future funding is going to be there. We are going to discuss whether it should be increased, what should those levels be, what the plan is, what the systems look like. But that confidence is there.

Mr. VAN DEERLIN. Mr. Gore, have you any further questions?

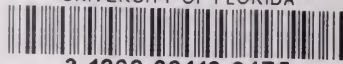
Mr. GORE. No further questions, Mr. Chairman.

Mr. VAN DEERLIN. Thank you very much, Mr. Lloyd and Mr. Sachs, for giving us this insight. That concludes the briefing.

[Whereupon, at 12:40 p.m., the subcommittee adjourned.]



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